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Response

**of the Ukrainian Government
to 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 8 to 21 December 2017

This response has been made public under an automatic publication procedure introduced by the Ukrainian authorities. The CPT's report on the December 2017 visit to Ukraine is set out in document CPT/Inf (2018) 41.

Strasbourg, 26 March 2019

Response of the Ukrainian Government to the report of the European
Committee for the Prevention of Torture and Inhuman or Degrading
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NB: in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

Chapter I. Summary

1. This response was prepared by the Ministry of Justice of Ukraine (*MoJ*) as the main central executive body responsible for the cooperation with the CPT. Response includes information provided by all relevant public authorities of Ukraine.
2. As the CPT's Report itself, this document consists of thematic chapters with responses and observations to the specific CPT's recommendations and comments.

Chapter II. The National Preventive Mechanism (*response to paragraph 14 of the Report*)

3. According to the information received from the Office of Ukrainian Parliament Commissioner for Human Rights (*Office of the Ombudsperson*), its budget increases every year, in particular, the state budget allocated 51.3 million UAH in 2017, 78.3 million UAH in 2018 and 130.5 million UAH in 2019 accordingly. In 2019, 2.6 million UAH was allocated for financing the national preventive mechanism (NPM). The separate budget programme will be drafted in 2019 to cover the expenses of the NPM within the Office of the Ombudsperson.
4. As of November 21, 2018 the Department for realization of the NPM of the Office of the Ombudsperson consisted of 26 positions, 6 of which were vacant (*it's planned to fill them in the nearest future*).
5. 130 non-governmental monitors, 17 experts from regional centres providing free secondary legal aid, 13 doctors, 23 lawyers and psychologists are engaged to realization of the NPM in Ukraine. These persons are volunteers and perform their functions on a voluntary basis.
6. Information on the NPM's monitoring visit to Chernivtsi SIZO and actions taken by the governmental authorities to eliminate identified violations is specified in chapter "Penitentiary System". Information on the participation of the NPM in the implementation of the rights of the residents within the social care establishments is indicated in chapter "Social care establishments".

Chapter III. Law enforcement

On the progress in introducing police detectives within the police structure (*response to paragraph 16 of the Report*)

7. The National Police (*NP*), supported by the European Union Advisory Mission, continues to implement the unification of investigators and operational officers in course of the reformation of the criminal police sphere. Since January 2017, an experiment on introducing new forms and methods of work in order to improve effectiveness of investigation of crimes (*first of all a grave and special grave crimes*) has been implementing in the Main Police Offices in Kyiv, Zaporizhia, Lviv, Odesa, Poltava, Sumy, Kharkiv and Khmelnytskyi regions. The experiment's goal is being achieved through the appointment of operational officers to the positions of investigators and balancing workload of investigators depending on crime gravity and its legal qualification.
8. As a result, the level of documental load related to investigators' orders was declined and autonomous execution of pre-trial investigation by investigators who previously acted as operational officers shortened the length of pre-trial investigation and increased responsibility for its results. In addition, workload balancing based on the severity of the crime allowed for speeding up the investigation of minor criminal offenses.
9. With the view to proceed the reformation, in July 2017 the Department for Investigating Special Grave Crimes within the Main Investigation Office of the NP was created consisting of officials representing criminal investigating department, economic security department, internal security department, combating human trafficking department, strategic

investigations department, cyber police and counter-narcotics police. 40 percent of investigators positions were filled with the operational officers within that Department.

10. Since the establishment of the Department a close interaction between investigators and operational officers was built allowing unifying the processes of revealing and investigating crimes. Another achievement of this Department is revealing and successful investigation of a series of high-profile crimes (*grave and special grave*) committed by organized criminal groups. The investigation of such crimes generally requires conducting significant scope of investigative and secret investigative measures.

11. In January 2018, having analyzed positive results and achievements of that organizational architecture, divisions for investigating special grave crimes composed of investigators (40%) and operational officers (60%) were created within each investigation forces of all territorial police offices throughout Ukraine. At those divisions investigators deal with general crime sphere, commercial and service realms, cyber police and combating drugs.

12. The NP carries out permanent control over the experiment within abovementioned departments; its results will be reflected during further reformation of law enforcement system.

On proper delivery of persons to pre-trial detention centers, detention of persons in pre-trial detention centers and return of remand prisoners and convicts to pre-trial detention centers (*response on paragraphs 17, 18, 19, 48 of the Report*)

13. The NP takes measures to improve functioning of the temporarily holding facilities (THF), in particular, the heads of the main departments of the NP in regions and Kyiv city are obliged to minimize practice of cases of detainees transferring from pre-trial detention centers and THF to carry out investigations, which are possible to have place within the mentioned establishments as well as to limit cases of prolonged (*over 5 days*) detention of detainees in THF.

14. As of November 01, 2018 there were 150 THFs within the NP, 30 of which were temporarily closed because of inappropriate conditions of detention and necessity for repair and construction work. Despite limited funding, THF in Volodymyr-Volynskyi city of Volynskyi region was put into operation after the reconstruction in 2018.

15. Issues on temporarily leaving the convicted persons in pre-trial detention centre or transferring him/her from house arrest, correctional centre, military disciplinary battalion or prison to pre-trial detention centre for the conduction of appropriate procedural actions during the pre-trial investigation of criminal offences committed by another person or by this person, for which he/she has not been convicted, or if the case is brought to court are regulated by Articles 537, 539 of the Criminal Procedural Code of Ukraine (*CPC*), Article 90 of the Criminal-Executive Code of Ukraine (*CEC*) and shall be decided by the court.¹

¹ According to paragraph 1 of Article 537 of the CPC during the execution of sentences, the court, among other things, may decide on issues concerning temporarily leaving the convicted person in pre-trial detention centre or transferring him/her from the correctional centre, disciplinary battalion or colony to pre-trial detention centre for the conduction of appropriate procedural actions during the pre-trial investigation of criminal offences committed by another person or by this person, for which he/she has not been convicted, or if the case is brought to court. According to paragraph 1 of Article 539 of the CPC issues arising at the time and after execution of a sentence shall be decided by court upon motion (submission) of a public prosecutor, convicted person, his/her defense counsel, legal representative, penal institution as well as other persons, institutions or bodies where provided for by law. Provisions of Article 90 of the CPC are consistent with the provisions of paragraph 1 of Article 537 of the CPC.

On outcomes of investigations on the facts of ill-treatment with regards to certain persons (*response to paragraph 23 of the Report*)

I. B.

16. On December 04, 2017 Kyiv Prosecutor's office initiated criminal proceeding No. 42017100000001513 under paragraph 2 of Article 365 «Abuse of power or duties by law enforcement officer» of the Criminal Code of Ukraine (CC) for infliction of bodily harm to I.B. by the police officials of the Pechersk Police Department of the Main Department of the NP in Kyiv city. The investigation unit of the Main department of Security Service of Ukraine (SSU) in Kyiv and Kyiv region were tasked with conducting pre-trial investigation. As of today the investigation is ongoing.

17. Moreover, the Main Department of the NP in Kyiv conducted an official inspection on possible illegal actions of the police officers of the Pechersk Police Department of the Main Department within the NP in Kyiv city in regard to the citizen from USA I.B. according to which, it became impossible to confirm or deny illegal actions committed by the police officers. Due to this, and considering that I.B. and his attorney are insisting on the fact that police officers of the Pechersk police department inflicted him bodily injuries, the materials of official investigations on the possible illegal actions committed by the police officers of Pechersk police department in regard to the citizen of the USA I.B. were sent to Kyiv Prosecutor's office. I.B. was informed about the results of the official investigation. Copy of conclusions based on the results of official investigation is attached.

S. T.

18. On information, noted in paragraph 23 of the CPT's Report on allegedly unlawful actions of police officers against S. T., it should be noted that according to electronic database of the Main Department of the NP in Kyiv city, application of S. T. was not received by the mentioned territorial police authority. However, on November 21, 2018 the General Prosecutor's Office had initiated criminal proceeding No. 42018000000002919 for infliction of bodily harm to S. T. by the police officers of Svyatoshynskiy Police Unit of the Main Department within the NP in Kyiv city on the grounds of paragraph 1 of Article 127 "Torture" of the CC. To carry out pre-trial investigation this proceeding was sent to Kyiv Prosecutor's office.

V. N.

19. On November 30, 2017 the Main Department of the NP in Lviv region received from the Prosecutor's Office of Lviv region the application from V.N. concerning the illegal, to his view, actions of the police officers who during apprehension on October 31, 2017 inflicted bodily harm on him. When verifying information in application, conducted by the Main Department of the NP in Lviv region, interviewed police officers explained, that they did not commit any illegal actions against V.N. and did not inflict him any bodily injuries. V.N. didn't complain about his health condition during the apprehension. The results of the examination were sent to Lviv region Prosecutor's Office No. 2. According to the results of the mentioned documents, there were no grounds for entering this information into the Unified Register of Pre-trial Investigations. V.N. was informed about it. Conclusion of the official inspection of police officers' actions in this case, response to V.N. according to the results of the inspection, results of verifying information by Lviv region Prosecutor's Office No. 2, as well as information documents on the results of this inspection, provided to V.N. are attached.

20. Hereinafter, on the grounds of the court decision of Shevchenko District Court of Lviv of April 23, 2018 data to the National Register of Pre-trial Investigations under paragraph 1 of Article 125 «Wilfully inflicted actual bodily harm» of the CC according to the complaint of V.N. were submitted. Pursuant to the results of pre-trial investigation, the investigation unit of Police Department of Shevchenko District within the Main Department of the NP in Lviv

region on September 17, 2018 closed criminal proceeding according to Article 284 (2)(1) of the CPC (*absence of evidence of the commission of the offence*). On November 21, 2018 the General Prosecutor's Office initiated criminal proceeding No. 42018000000002920 relating to the infliction of bodily injuries to V.N. by the police officers of Shevchenko District within the Main Department of the NP in Lviv region according to paragraph 2 of Article 365 «Abuse of power or authority by law enforcement officer» of the CC. To carry out pre-trial investigation this proceeding was sent to Lviv region Prosecutor's office.

S. D.

21. According to the information of the Main Department of the NP in Chernivtsi region, registers, containing information of visitors, delivered and invited persons, as well as information of the center for free legal aid and integrated information retrieval system «ARMOR» during 2017, a person whose personal data contain a name of «S. D.» did not visit the police unit of Chernivtsi region, was not detained by the police officers and delivered to the THF. Beginning from 2017 up to that time mentioned person was not detained in state establishment «Temporary holding facility of Chernivtsi region» (*former Chernivtsi penal institution No. 33*). Person whose personal data contain a name of «S. D.» sent no applications and complaints to the Main Department of the NP in Chernivtsi region during 2017. A formal response in this regard, as well as other relevant information on implementation of the CPT's recommendations from the Main department of the NP in Chernivtsi region is attached.

22. At the same time, in order to clarify the circumstances of a possible event involving S. D., General Prosecutor's Office on November 21, 2018 had initiated criminal proceeding No. 42018000000002921 relating to the infliction of bodily harm to S. D. by officers of the Main department of the NP in Chernivtsi region on the grounds of paragraph 2 of Article 365 «Abuse of power or authority by law enforcement officer» of the CC. To carry out pre-trial investigation this proceeding was sent to Chernivtsi region Prosecutor's office.

23. In paragraph 23 of the Report, the CPT requested to receive copies of all procedural decisions made as well as forensic reports drawn up in the context of these cases. As regards providing more detailed information on the scope of investigative measures performed and providing copies of criminal proceeding materials there must be mentioned that pursuant to Article 222 of the CPC such data are confidential and shall not be disclosed.

On O. N. case (response to paragraph 24 of the Report)

24. An official investigation into the death of O.N. in Kiev THF was conducted by the Main Department of the NP in Kyiv. According to the results of the investigation, violations of the requirements of departmental regulations and current legislation in the actions of THF officials were not found. Conclusions based on the results of official investigation are attached.

25. The investigative department of Shevchenko police department of the Main Department of the NP in Kyiv city had conducted pre-trial investigation in criminal proceeding No. 12017100100007102 under paragraph 1 of Article 115 of the CC regarding the suicide of detainee O. N. within the cell of Kyiv THF.

26. While examining the body of O. N. ligature furrow on the neck was revealed (*as it stated in the conclusion of the forensic medical examination*). Any other bodily harm was not found. According to death certificate No. 1855 of June 15, 2017 and conclusion of forensic medical examination No. 1855 of August 03, 2017 death of O. N. occurred from mechanical asphyxia caused by hanging. Ligature furrow occurred shortly before (*a few minutes before*) death during neck tightness by noose affected by body weight in a hanging. Copy of video recording from security cell showing that on June 15, 2017 at 02:30 O. N. took a bed sheet, came to infirmary part of the cell and committed suicide within the cell No. 30 of the Kyiv THF, is attached.

According to the results of pre-trial investigation, on August 24, 2017 criminal proceeding was closed under Article 284 (1) (1) of the CPC (*absence of occurrence of criminal offence*).

27. In paragraph 24 of the Report the CPT requested to receive copies of all procedural decisions made within the criminal investigation. As regards providing more detailed information on the scope of investigative measures performed and providing copies of criminal proceeding materials there must be mentioned that pursuant to Article 222 of the CPC such a data are confidential and shall not be disclosed.

On the results of the Interior Ministry Human Rights Monitoring Department activity in 2018; received complaints (*response to paragraph 25 (2) of the Report*)

28. In order to ensure the observance of the human rights by the law enforcement agencies the Human Rights Monitoring Department (HRMD) was established within the Ministry of Internal Affairs of Ukraine (MoIA) structure in 2017. Its main goal is to monitor the human rights compliance by the staff of the NP, the State Border Service of Ukraine (SBS), the State Migration Service of Ukraine (SMS) and the State Emergency Service (SES).

29. The HRMD permanently analyses information on human rights observance, considers citizens' complaints and examines recommendations and observations made in the reports by the international organizations and the Office of the Ombudsperson following their monitoring visits to the relevant establishments of the MoIA system.

30. One of a practical mechanism of the HRMD functioning is interaction with international and national NGOs, state authorities concerning human rights observance, particularly, torture and ill-treatment prevention, national minorities' rights compliance, combating domestic violence, respect of rights of the LGBTI community, asylum seekers, refugees, etc.

31. Within the framework of implementation of the Strategy on Protection and Integration of Roma National Minority into Ukrainian Society the MoIA has launched a permanent working group to work on mutual measures between civil society and state authorities with the view to prevent and combat illegal actions against Roma national minority.

32. Besides, the HRMD closely cooperates with NGOs in the sphere of LGBTI rights protection. A special officer was appointed to stay in touch with the representatives of the LGBTI organizations and promptly deal with human rights issues.

33. In 2018, the HRMD examined 51 complaints. In order to improve complaint mechanisms to file a complaint against law enforcement officials the HRMD initiated a launching of a "hotline" within the MoIA. Launching of the "hotline" is additional mechanism which allows conducting comprehensive monitoring of the human rights observance by the law enforcement officials and research actual problems with finding further solutions. The HRMD has drafted a Procedure of the "hotline" functioning.

34. Moreover, in order to examine the human rights observance within the law enforcement agencies the HRMD permanently analyses the implementation of the Human Rights Strategy Action Plan up to 2020. The HRMD coordinates the process of implementation of the relevant Action Plan measures by the departments of the MoIA. The MoIA is responsible for the realization of 59 measures and participates in realization of other 66 measures within the Action Plan.

On police THF's "Human rights inspectors" project (*response to paragraph 25 (3) of the Report*)

35. In order to enhance the capacity of the informational subsystem "ITT Custody records", ensure efficient interaction with detainees, prevent violations of human rights while apprehending and identifying circumstances of alleged offences, a pilot project is proceeding. Its aim is to observe human rights within the THFs. As part of that project, the posts of human rights inspectors were introduced within the THFs of the Police Offices of Dnipro, Kherson,

Kirovohrad and Rivne regions. In course of the project, the selection of inspectors was conducted and they underwent trainings. Another positive development of that project is introducing of a procedure of interviewing detainees who are brought to the THFs.

On the use of body cams by police officers *(response on point 25 (4) of the Report)*

36. The NP drafted an instruction on application of technical tools with photo/video recording by police. This instruction was drafted to regulate the procedure of application of technical tools with photo/video recording by police officials, mechanisms of use, keeping, and deleting of information obtained by such photo/video recording tools. Police officers working in THFs shall be allowed to use such tools after the adoption of this instruction.

On the NP Internal Security Department's activity in 2017, 2018: preventing ill-treatment and reacting on complaints against police officers *(response to paragraph 27 (1) of the Report)*

37. According to data provided by the NP Internal Security Department (ISD), in 2018 the officers of the ISD performed more than 2200 preventive measures to reveal and prevent cases of illegal detention of citizens, harming injuries and keeping extraneous objects inside service premises which might be used as a tool for tortures. In 2018, the ISD offices throughout Ukraine received more than 2100 complaints about violations of human rights, of them more than 530 regarding physical ill-treatment and more than 30 regarding torture. Based on these facts the public prosecutor's offices initiated 41 criminal proceedings; 48 policemen were brought to disciplinary accountability, of them 7 were dismissed.

38. Totally in 2018, following the documentation of the ISD offices the public prosecutor's offices opened 64 criminal investigations, including 48 of beating, 4 of torture, 3 of illegal apprehension, 3 of unauthorized searches, 4 of unauthorized extraction of property, 1 of illegal criminal prosecution and 1 of illegal administrative prosecution. These investigations impacted on 38 officers of law enforcement agencies being suspected of committing criminal offences.

On investigation of ill-treatment committed by law enforcement officers *(response to paragraph 27 (2) of the Report)*

39. According to data provided by the General Prosecutor's Office, in 2017 the investigation units of the public prosecutor's offices investigated 1230 criminal proceedings of crimes of ill-treatment and torture committed by the law enforcement officers; following the results of these investigations 44 indictments against 75 law enforcements were brought to the court. In 2018, more than 663 criminal proceedings were investigated resulting in 27 indictments sent to the court against 47 law enforcement officers. The reporting forms do not have disaggregated article-by-article recordings about crimes committed by various law enforcement officers.

40. In 2018, public prosecutor's authorities submitted more than 1060 prosecutorial reaction documents in order to eliminate human rights violations within the places of deprivation of liberty. The impact of the prosecutorial documents' submission is that 774 policemen and prison staff were brought to accountability; measures were taken to improve conditions of detention, comply with the regime requirements and provide healthcare to detainees; and 9 remand prisoners were released from the solitary confinement within the SIZOs.

Regarding the policy of «zero tolerance» of ill-treatment of persons detained by the police (*response to paragraph 28 of the Report*)

41. This Report was sent to the structural units of the central inter-regional territorial police bodies entrusted with taking measures to implement the recommendations of the CPT.

42. As a result of the examination of the CPT's recommendations, the police officers emphasized that according to paragraph 7 of Article 29 of the Law of Ukraine No. 580 dated July 2, 2015 «On the National Police» the police action is terminated when the purpose of its application has been achieved. At the same time, it is fundamentally noted that there is no justification for beating a person against whom coercive measures are applied, and in case of person's detention, the centre for providing free legal aid should be obligatory informed about this event.

43. While conducting special training courses, instructions and inspections of the order of carrying out the police service functions by the police officers, they are always reminded of the requirements for the strict observance of human rights and freedoms, the prevention of the use of abusive comments during communication with citizens, inadmissibility of arbitrary detention, taking persons to the police stations and personal examinations of individuals, threats of physical force, special means and firearms.

44. Training programs for law enforcement officials envisage learning of the provisions of the Convention and its Additional Protocol, UN Standard Minimum Rules for the Treatment of Prisoners, European Prison Rules, the CPT recommendations, European Convention on Human Rights and its jurisprudence. Within the framework of a primary training newly recruited police officers study the subject "Ensuring human rights and freedoms. Freedom from torture, cruel, inhuman or degrading treatment or punishment. Practice of the European Court of Human Rights".

Regarding the proper registration of detentions (*response to paragraph 29 of the Report*)

45. According to the Instruction on the Organization of the Regular Service of the Bodies (*divisions*) of the NP (*approved by the order of the MoIA No. 440 of May 23, 2017*) the head of the territorial police unit appoints one or more officials, other than the investigators, responsible for staying of detainees in this police unit. When considering the circumstances of detention or bringing persons to a territorial police unit, the police comply with the following requirements:

- 1) the consideration of the said circumstances is carried out by police officers in a separate room, which is equipped in a manner that does not impair the honour and dignity of detained persons, with the observance of the terms established by the current legislation;
- 2) all persons, without exception, who are detained, delivered, summoned by police officers for the compilation of materials on administrative violations, the conduct of procedural and investigative (*search*) actions, or those who arrived from personal or service issues, are recorded in the logbook of the delivered, visitors and invitees;
- 3) the police officer who arrested the person or responsible for the detention of the detainees immediately informs the detained person after such detention that he/she is entitled to a lawyer, as well as the centre for providing legal aid. If such actions have not been done, the duty officer must independently notify the relevant authority, fixing the time of such notification and the data of the official who received it in the logbook for informing the centres of provision of free secondary legal aid to the detainees;
- 4) in the case of unreasonable detention, the operational duty is obliged to release the detained person immediately, making the corresponding recording in the logbook of delivered, visitors and invitees, and to offer an official who was guilty of unjustified detention to apologize. The head of the territorial division of the police must be reported in a written manner on the fact of such unjustified detention for further conducting official investigation.

46. The abovementioned logbook of the delivered persons, visitors and invitees contains the following information:

- the date and time of delivery, arrival to the police department (*unit*);
- surname, name, patronymic (*without reduction*);
- the postal address of the place of actual residence, registration;
- the surname, position of the employee to whom the person was delivered or by whom was invited to the police department (*unit*);
- the purpose of the delivery, arrival;
- the time of leaving the police body (*unit*). Measures taken in relation to the delivered person (*a protocol has been drawn up, explanations have been taken, etc.*);
- the presence or absence of claims to police officers;
- personal signature of the delivered person or invited guest;
- in case of unreasonable delivery, the ground and time of dismissal of the person, as well as the position, surname and signature of the official.

47. Information about the delivered person, visitors and invitees is written on the basis of the identification documents, and if such documents are absent - from the words of a delivered person.

48. According to the NP Order No. 747 of July 21, 2017 police officers are prohibited to keep within the service rooms tools which might be used to cause bodily injuries to detained, delivered and taken into custody individuals.

49. Representatives of the Association of Ukrainian human rights monitors on Law Enforcement periodically carry out monitoring visits to the separate temporary holding facilities in order to monitor the functioning of the «ITT custody records» police information system, implemented to supervise the observance of the rights and freedoms of persons detained there. In 2018 a number of monitoring visits were carried out, for example, in temporary holding facilities of Cherkasy, Zhytomyr and Chernihiv regions. In order to establish and coordinate the effective functioning of the detention registration system by the police officers, the working group under the auspices of the MoIA was established. The working group will develop an automated information system on observing the rights of the detained person and take necessary measures for its implementation in all territorial bodies and units of the Ministry of Internal Affairs.

On the establishment of the State Bureau of Investigations (*response to paragraph 30 of the Report*)

50. The State Bureau of Investigations (*SBI*) commenced its activity on November 23, 2018 (*the relevant notice was published in the daily publication of the central executive authorities of Ukraine "Uriadovy Courier" (No. 221) taking into account the requirements of the provisions of paragraph 201 of section XI "Transitional Provisions" of the Code of Criminal Procedure of Ukraine*).

51. According to Article 9 of the Law of Ukraine No. 794 of November 12, 2015 "On the SBI", the personnel of its central apparatus and the territorial bodies is 1500 persons. As of mid-January 2019, the SBI has appointed: to the central apparatus – 207 employees, including 110 investigators; to the territorial bodies – 334 employees, including 175 investigators. By March 2019, it is planned to complete the competition for 61 posts to the central apparatus (*including 38 investigators*) and to the territorial bodies for 130 positions (*including 35 investigators*).

52. The SBI is investigating a significant number of criminal proceedings, in particular on the facts of committing crimes by law enforcement officials provided for in:

53. Article 127 (*Torture*) of the CC, investigators of the central office of the SBI are conducting pre-trial investigations in 2 criminal proceedings; investigators of the territorial offices of the SBI - in 11 criminal proceedings, of which 9 cases were transferred to the Bureau. Among them, 9 proceedings were handed over to the SBI;

54. part 2 of Article 365 (*abuse of powers by a law enforcement officer, accompanied by violence or the threat of violence, the use of weapons or special means or painful and insulting the personal dignity of the victim, in the absence of signs of torture*) of the CC, investigators of the central office of the SBI are carrying out pre-trial investigations in 2 criminal proceedings (2 persons were brought in an indictment), the investigators of the territorial bodies of the SBI – in 164 criminal proceedings. Among them, 113 proceedings were handed over to the investigators of the SBI;

55. parts 1 (*intentional commission by an employee of a law enforcement agency of actions that clearly go beyond the rights or powers granted to him if they significantly harm the rights protected by law, the interests of citizens, public interests, interests of legal persons*) and 3 (*actions provided for in parts one or two of this article, if they caused grave consequences*) of Article 365 of the CC, the investigators of the territorial office of the SBI are carrying out pre-trial investigation in 183 criminal proceedings. The territorial offices of the SBI are carrying out criminal proceedings under part 1 of Article 115 (*wilful murder*), part 3 of Article 365 in connection with the murder of a citizen by a police officer, in another criminal proceeding 4 police officers were charged with the commission of crimes provided for in part 2 of Article 365 and part 2 of Article 187 (*robbery committed by a group of persons upon prior conspiracy or by a person who previously committed robbery or banditry*). These policemen were detained.

56. In order to ensure proper functioning of the SBI, in particular, carrying out of operational and investigative activities on the grounds and according to the procedure established by the legislation, the SBI is considering the issue of amending the Laws of Ukraine “On Operational and Investigative Activity” (*to regulate the operational and investigative activities of the subdivisions of the SBI - operational, operational-technical, internal control, personal security*) and “On the SBI” (*to resolve the issues of remuneration of labour for operational staff*).

On participation of the prosecution authorities in the process of establishment of the SBI and their readiness to respond allegations on ill-treatment by the law enforcement authorities (*response to paragraph 31 of the Report*)

57. As a result of the reform, the Prosecutor General’s Office lost the function of pre-trial investigation and continues provisionally exercise it during the period of transitional provisions of the legislation till November 20, 2019 only in the criminal proceedings initiated prior to November 20, 2017.

58. Nevertheless, the prosecution authorities continue to take criminal-law measures on prevention of tortures and other ill-treatment by law enforcement officers since the SBI, responsible for the investigation of tortures committed by the law enforcement officers, has not yet begun its investigative work.

59. Department for Procedural Guidance in criminal proceedings falling within the competence of the SBI was established within the Prosecutor General’s Office by the Attorney General’s order of July 02, 2018 according to the provisions of Article 29 and paragraph 4 of the Final and Transitional Provisions of the Law of Ukraine “On the SBI”. This Department is authorized, in particular, to supervise over the observance of laws in criminal proceedings, pre-trial investigations in which are carried out by the officers of the SBI, in the form of the procedural control over pre-trial investigation, as well as to handle the prosecution in them. This Department is staffed by qualified prosecutors, capable of effective prosecutorial supervision over the investigative work of the SBI.

On the role of judges in preventing ill treatment by law enforcement authorities (*response to paragraph 32 of the Report*)

60. In third abstract of paragraph 32 of the CPT’s Report the Committee calls upon the Ukrainian authorities to ensure that a firm message be delivered by the High Council of Justice

(HCJ) to judges reminding them of their legal obligations according to the provisions of the CPC. In this context, the HCJ stated that it is not authorized according to the legislation to instruct judges on the implementation of laws, as judges are independent and governed by the rule of law as provided for in Article 129 of the Constitution of Ukraine.

61. Nevertheless, in exercising its legal powers while conducting disciplinary proceedings against judges, the High Council of Justice had repeatedly emphasized in its decisions on the need for judges to comply with the requirements of Article 206 of the CPC, in particular, in decisions No. 869/0/15-15 of November 17, 2015 «On submission to the President of Ukraine on dismissal of the citizen Sh. from the position of a judge of the Obolon district court in Kyiv for violating the judge's oath»; No. 1192/0/15/15 of December 17, 2015 «On submission to the Parliament on the dismissal of the citizen P. from the position of a judge of the Darnytskyi district court in Kyiv for violating the judge's oath»; decision of the First Disciplinary Chamber of the HCJ No. 3692/1dp15-17 of November 16, 2017 «On bringing a judge K. of the Darnytskyi district court in Kyiv to disciplinary liability» (*upheld by the decision of the HCJ No. 1174/0/15-17 of April 17, 2018*).

62. According to the provisions of the Law of Ukraine "On Judiciary and Status of Judges" the HCJ requested the National School of Judges of Ukraine to highlight this issue in training programs and materials.

63. Furthermore, the CPT's Report was sent for consideration to the Supreme Court (SC) that ensures consistency and unity of the judicial practice in the manner established by the procedural law. The SC replied that it would analyze the CPT's Report in relation to the courts' activities in order to further ensure the unified application of the rules of law by the courts of different specializations in the manner specified by procedural law.

64. For the wider dissemination of the CPT's recommendations within the judicial system, the SC sent an extract from the CPT's Report to the courts of appellate instance for review and further consideration in the work.

Regarding medical examination of the detainees (*responses to paragraphs 33 and 34 of the Report*)

65. According to the Rules of the internal order in the temporary holding facilities (THF) of the internal affairs bodies of Ukraine (*approved by the Order of the MoIA No. 638 of December 02, 2008*) the primary medical examination of the detainees and persons taken into custody is carried out in medical facilities of the Ministry of Healthcare of Ukraine (MoH) to detect existing diseases, injuries and to obtain a conclusion on the state of health before placing them to the THF. Having detected bodily harm of such persons, the police officers promptly, but not later than 24 hours, notify the prosecutor's office. Before placing these persons in the cells, they must undergo a comprehensive sanitary treatment, which includes washing, dressing in a decanter. The results of the survey of detainees and persons taken into custody on complaints about their health, the nature of the medical care provided to those in need, are written to the Registry of the primary examination of persons placed to the THF and the Registry of medical care for persons held in the THF.

66. While holding such persons in THF police officers, if necessary, provide them with first medical aid. If the state of health of persons held in THF is deteriorating or there is a need in providing emergency care to them an ambulance is called immediately. In the case of illness, detainees are taken to the medical facility according to the doctors' recommendations.

67. As the medical certificates were absent in some personal cases of the detainees at the time of CPT's visit to the Kyiv temporary holding facility,

68. The General Directorate of the NP conducted an official investigation into the fact of absence of medical certificates in some personal cases of the detainees at the time of CPT's

visit to the Kyiv THF. As a result, it was established that these certificates were available; however, the officers of the THF did not attach them to the personal cases of 7 persons, detained within the procedure established by Article 208 (*detention by an authorized official*) of the CPC.

69. In 2018, the NP set up a working group on regularizing medical care provision to detainees (*taken into custody*) and persons held in special police premises designated for this purpose. This working group coordinates drafting resolution of the Cabinet of Ministers of Ukraine on approval of the Procedure for the provision of medical care to detainees and persons taken into custody staying at the NP units (*divisions*). According to this draft Procedure detainees and persons taken into custody will be provided with medical care on an outpatient basis at the place of their staying, specialized medical care as well as undergo medical examination before placing to the THF.

Regarding means of legal defence against ill-treatment, notification on detention, access to a lawyer, registration of detainees (*responses to paragraphs 35-39, 42, 44, 45, 50 of the Report*)

70. Procedure for timely notification of centres providing free legal aid on the detention of the person is established by the Instruction on the Organization of the Regular Service of the Bodies divisions of the NP (*approved by the order of the MoIA No. 440 of May 23, 2017*).

71. The information subsystem «Detained and taken persons» is operating on the basis of the Integrated Information Retrieval System of the MoIA. This subsystem is an automated record of persons detained and taken to the police unit (*subdivision*) on the suspicion of committing offenses and providing such persons with free secondary legal aid. Having delivered a person to the police unit (*subdivision*), the police officer in charge enters information to the information subsystem «Detained and taken persons» regarding the grounds and place of detention, his/her personal data, place of residence, the name of the service that delivered a person, number and date of the detention protocol, information on the provision of the secondary legal aid and medical assistance (*if necessary*). Reason, place, date, and time are indicated in case of departure.

72. The NP is drafting an order «On Some Issues for Keeping Separate Records in Informational and Telecommunications System «Informational Portal of the NP of Ukraine». The specified organizational and administrative act provides for the developing register for detained persons by means of the software and hardware complex of the information and telecommunication system «Information portal of the NP».

73. Responding to request in paragraph 37 (3) of the Report as regards employing civilian staff in police emergency call centres (*“102 Centres”*) the NP and the MoIA reported that in order to provide a functional build-up of the police rapid reaction system to respond offences and other extraordinary events the territorial police offices have established “102 Service” divisions. Staff of these divisions using a computerized working place of a “102 Service” operator and the NP Informational Portal receive and register notifications on offences or other events in a 24 hours/7 days a week regime. These notifications are submitted via 102 emergency police phone line and through other connection types.

74. Within the execution of the NP Order No. 8731/01/25-2017 during August-November 2017 all territorial police offices have conducted a substitution of operators` positions from the police officers to the civilian staff. Following the organizational transformations the staffing levels of the “102 Centres” comprise 924 posts, of them 147 posts (16%) are police officials and 777 (84%) are civilian staff. Only 18 posts (2%) of “102 Centres” remain vacant.

75. At the same time, the NP and the MoIA reported that introduction of additional civilian staff posts to inform free legal aid centres on the apprehension and detention of detainees is

irrelevant because the Governmental Decree No. 1363 of December 28, 2011 regulates the procedure of information of the free legal aid centres about apprehension, administrative arrest or taking into custody. Besides, the functions of control over informing free legal aid centres about detention are carrying out by officers in the police duty rooms.

76. Starting from January 01, 2013, regional centres for the provision of free secondary legal aid provide free secondary legal aid to persons who have been subject to administrative detention or administrative arrest; detained. These categories of persons are entitled to all types of legal services provided for in paragraph 2 of Article 13 of the Law of Ukraine "On Legal Aid", namely: protection; representation of interests in courts, other state bodies, local self-government bodies, to other persons; including drafting of procedural documents.

77. According to the Procedure for informing centres for the provision of free secondary legal aid on cases of detention, administrative arrest or use of remand in custody as a preventive measure (*adopted by the Governmental Order No. 1363 of December 28, 2011, as amended by the Order No. 793 of October 18, 2017*) police officers and/or the representatives of other bodies authorized to detain individuals inform the regional centre on a detainee by telephone or facsimile to the single telephone number of the free legal aid and other telephone numbers, e-mail, or through a comprehensive information and analytical system providing free legal aid immediately after the actual detention of a person.

78. The regional centre within 1 hour after the registration of such notification appoints a lawyer for the provision of the free secondary legal aid to the detained person by issuing an appropriate order to him. Having received the order, an appointed lawyer within 1 hour (*in exceptional cases within 6 hours from the moment the order was issued*) comes to such person to conduct a confidential appointment with him/her. As specified in paragraph 9 of the above-mentioned Procedure, the detainee is obliged to refuse the assistance of the lawyer appointed by the regional centre in the presence of the lawyer through a written application, a copy of which is submitted by the lawyer to the appropriate regional centre.

79. If the lawyer appointed by the regional centre for the provision of free secondary legal aid is not allowed to the detainee (*suspect, accused*), he/she immediately informs the relevant regional centre of what have occurred. The Regional Centre, in its turn, prepares and sends the corresponding letter to the territorial regional police authority or to the General Directorate of the NP with a request to conduct an official check on the basis of information received from the lawyer and, if the violation is confirmed, to take appropriate disciplinary measures against perpetrators.

80. As provided for in the Procedure, a person detained on a suspicion of committing a crime; persons detained on the basis of the decision of the investigating judge, the court, persons against whom administrative detention or arrest is used or who are assigned to remand into custody as a preventive measure; their close relatives and their family members are also entitled to report to regional centres about the cases of such detention as well.

81. According to the amendments made in 2017 to the abovementioned Procedure Ukrainian Parliament Commissioner for Human Rights (*Ombudsperson*), his/her representatives or regional offices are entitled to inform about such detention the appropriate regional centre (*if this wasn't done before*) in case of revealing places where persons are held forcibly under the court or administrative authority decision.

82. On February 20, 2018 the MoJ and the MoIA by joint Order No. 433/5/133 adopted the Procedure for the placement of printed products with information on the rights of individuals for the protection and free legal aid in the authorities and units of the NP. The Procedure determines the mechanism for the transfer, receipt, and placement of printed products containing information on the rights of persons for the protection and free secondary legal aid in police units and divisions, investigators and operative workers' offices, detention rooms,

police stations and duty rooms, service vehicles, pre-trial detention centres etc. It aims at informing persons against whom administrative detention or arrest is used, detainees, persons taken into custody; persons concerning whom the defendant is appointed by an investigator in criminal proceedings according to the provisions of the CPC, or by a prosecutor, an investigating judge or a court for the purpose of protection, as well as persons sentenced to deprivation or restriction of liberty. These products are located in all police units (*divisions*) throughout the territory of Ukraine.

83. In order to ensure proper protection of the rights of persons detained on suspicion of committing a criminal and/or administrative offense the MoJ set up a working group for developing an automated exchange mechanism for persons detained on suspicion of committing criminal and/or administrative offense and lawyers appointed to provide free secondary legal aid to such persons between police authorities and subdivisions and regional centres.

84. As of January 15, 2019, 485 363 orders were issued to lawyers for the provision of free secondary legal aid, including 33 751 for persons against whom an administrative detention was used, 22 405 for persons against whom an administrative arrest was used, 114 824 for persons detained on suspicion of committing a crime and/or who are assigned to remand into custody as a preventive measure.

85. As of January 01, 2019, due to the provision of legal aid in criminal proceedings, more than 2,5 thousand justification sentences were passed and/or criminal proceedings were closed in the absence of a crime; more than 5 thousand refusals were filed in satisfaction of the petition for choosing a preventive measure in the form of detention; more than 30 thousand exemptions from serving a sentence with a trial; more than 38 thousand appointments of a minimum period of punishment and/or a more lenient punishment than that provided for by law.

86. Persons held in THF are provided with 3-time hot meal. For breakfast and dinner, one meal is served, two for lunch. Ready food is delivered to THF by food service providers with which contracts are concluded. According to the Nutrition Standards for Persons Kept at THF (*the Government Decree No.336 of June 16, 1992*) a detained person per day is provided with 150 grams of bread, 120 grams of cereals, 100 grams of meat, 100 grams of fish, 550 grams of potatoes, 250 grams of vegetables, etc. On December 27, 2018 (*the Government Decree No. 1150*) new standards of nutrition of the abovementioned persons were adopted. New standards provide for more vegetables, bread, adding dried fruits, etc. These standards will enter into force on January 01, 2020.

Regarding forensic examinations (*response to paragraph 41 of the Report*)

87. The CPC regulates the mechanism of conducting a forensic medical expertise within the criminal proceedings, inter alia, according to:

- Article 242 an expert examination shall be conducted by the expert institution, an expert or experts upon the commission of the investigating judge or court provided upon request of a party to criminal proceedings or when special knowledge is necessary to find out circumstances of importance for criminal proceedings. Investigator or public prosecutor shall be required to request investigating judge to conduct examination in respect of establishing causes of death; establishing gravity and nature of bodily injuries; ascertaining mental state of the suspect upon availability of information which casts doubt on his sanity or limited capacity; ascertaining the age of a person in so far as it is necessary to dispose the issue relating to his criminal liability whenever it is impossible to have such information in a different way; ascertaining sexual maturity of a victim; determining physical damage, non-pecuniary damage, and damage to the environment caused by the criminal violation;

- Article 244 an investigating judge shall submit a motion if the person who filled it will be able to prove that involvement of an expert is essential to address this issue. The investigating judge shall independently determine the expert to be involved, or the expert institution, which should be entrusted with the conduct of the examination;

- Article 332 during trial, the court upon a motion from parties to criminal proceedings or a victim in presence of grounds provided for in Article 242 of the CPC shall have the right by its ruling to assign the conduct of expert examination to an expert institution, an expert or experts. The court shall have the right by its ruling to assign the conduct of expert examination to an expert institution, an expert or experts irrespective of the motion if the court has been provided with a number of experts' opinions contradicting each other, and the interrogation of experts has not removed the discovered contradictions; if during trial, grounds had emerged specified in paragraph two of Article 509 of the CPC, there are sufficient reasons to consider the expert's (*experts'*) opinion groundless or such which contradicts other materials of the case or cause other substantiated doubts as to its correctness.

88. On September 18, 2018 a draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Strengthening the Guarantees of Independence of a Judicial Expert and Proper Exercise of Forensic Activities" (*Reg. No. 8336*) was adopted in the first reading. This draft is intended to provide for the right of the defence party to independently involve an expert of a state specialized institution on contractual arrangements for conducting an examination, including compulsory one. It proposes to make the following amendments:

- the CC by providing for criminal liability for interference with the activity of a judicial expert in order to prevent the performance of forensic expert activity, as well as responsibility for the deliberate destruction or damage of property belonging to a judicial expert;

- the CPC by providing for the possibility of conducting an expert examination only at the stage of judicial review, as well as by introducing the possibility of the investigator, the prosecutor to receive written explanations of the expert's conclusion;

- the CPC by providing for the parties to criminal proceedings to independently involve experts (*including on contractual terms*), except for the duty of the prosecution to apply for an examination to the investigating judge if necessary to conduct handwriting expertise, linguistic expertise of speech, video and sound recordings expertise, economic expertise, merchandising expertise, psychiatric expertise;

- the Law of Ukraine "On Forensic Examination" by introducing the Unified State Register of forensic examinations and expert studies.

Regarding juveniles detention (*response to paragraph 43 of the Report*)

89. The NP developed an information card on the rights of children in cases of their detention by the police officers.

90. Over the last 6 years lawyers working within the free legal aid system provided free secondary legal aid to juveniles in 31,632 cases.

91. In February 2018, the MoJ launched a pilot project «Recovery Program for Juveniles suspected of committing a crime on the basis of free legal aid system» on the initiative of the UN Children's Fund Office in Ukraine (*UNICEF*). The program is being implemented by the Coordination Centre for Legal Aid Provision through training lawyers for free legal aid who expressed a desire to become mediators.

Concerning the safeguards for foreign nationals detained in the THF of the SBS (*response to paragraph 46 of the Report*)

92. According to the Instruction on the Order on Detention of Persons within the Bodies (*divisions*) of the SBS (*adopted by the Order of MoIA No. 352 of March 30, 2015*) a detainee at any time

have an access to a lawyer in his/her written application *(or an application of the close relatives)*. Such meetings take place in a special room, where detainees can talk privately with a lawyer.

93. Officials of the SBS guided by the requirements of the Ukrainian legislation call the interpreter if the detainee does not speak language of the administrative proceeding in terms of the reception of copies of documents by foreigners in a language they understand. The duties of the interpreter include full and accurate translation. Officials carrying out administrative proceeding are prohibited from interfering with the activities of the interpreter, providing instructions on the implementation of a written translation of a decision on administrative detention or a procedure for appealing such decisions. An interpreter, for his part, shall strictly observe confidentiality principle and unconditionally sign the obligation of nondisclosure of information contained in the applicant's personal file drawn up by the migration service authority.

94. According to Article 14 of the Law of Ukraine «On free legal aid», persons who are subject to the Law of Ukraine «On Refugees and Persons in Need of Additional or Temporary Protection» have the right to all types of legal service *(protection, representation in courts, other state authorities, bodies of local self-government, to other persons, drawing up of documents of a procedural nature)* from the moment a person submits an application for recognition as a refugee or a person in need of additional protection in Ukraine prior to the adoption of the final decision as well as foreigners and stateless persons detained for the purpose of identification and ensuring the compulsory departure from the moment of detention.

95. According to Government Resolution No. 401 of June 24, 2016 «Certain issues of the use of interpreters (sign language interpreters) services to ensure the provision of free secondary legal aid» *(as amended by the Government Resolution No 1048 of December 20, 2017)* interpreters *(sign language interpreters)* are involved in the provision of free secondary legal aid to the subjects of law in case they don't speak the state language and/or are deaf, dumb or deaf-mute on the basis of agreements concluded with them to provide the corresponding services in accordance with the requirements of civil law by the centres for the provision of free secondary legal aid.

On the possibility for foreign nationals detained in the THF of the SBS to use the VoIP technologies on a free-of-charge basis for communication with the outside world *(response to paragraph 47 of the Report)*

96. According to the Instruction for drawing up case materials on administration offences by the officials of the Administration of the SBS on the detention of a foreigner *(adopted by the Order of the SBS No. 898 of September 18, 2013)*, the diplomatic mission of the country of his/her citizenship, with the exception of persons who have applied for recognition as a refugee or a person in need of additional protection, is informed. The detainee's communication with persons, who are outside the places of temporary detention, in particular through VoIP technologies, is regulated by the official, who is conducting proceedings for administrative offense, taking into account the risk of the detainee taking measures to avoid liability. Such communication takes place under the control of the designated officer from the detainee's phone using popular messaging programs *(Viber, WhatsApp, Skype, etc.)* to obtain additional data for identifying the person and inform close relatives about the whereabouts of the detainee. At the same time, provision of free and unfettered access of detainees to the Internet is contrary to the requirements of the guiding documents on information protection in the bodies and units of the state border guard.

On the regime for persons under administrative arrest. On shortening the maximum term of administrative detention in police or abolishing that type of sanction *(response to paragraph 49 of the Report)*

97. According to the Rules of Internal Order in the THF of the Law Enforcement Bodies *(approved by the order of the MoIA No. 638 of December 02, 2008 with amendments made by the order No. 660 of July 10, 2013)* persons held in THF have the right to take a walk for an hour a day; use TVs, small refrigerators, electro-boilers with wire, length no more than 50 cm, obtained from relatives or other persons, play games, read newspapers and books from the THF library or purchased; exercise religion.

98. According to the amendments made in 2013 to the abovementioned order persons held in THF gained the right to have at least three times a month short-term meetings with relatives or other persons lasting from 1 to 4 hours with the permission of the person or body conducting the criminal proceedings.

99. The issue on the possibility of making phone calls by persons held in THF will be taken into account when drafting acts aimed at resolving issues of the activity of THF.

100. Within the framework of implementation of the Human Rights Strategy Action Plan the MoJ drafted the Law of Ukraine “On amending Code on Administrative Offences regarding the Improvement Code Provisions taking into Account the European Court of Human Rights Jurisprudence on the Implementation of Administrative Arrest Issues”. This draft is under consideration of the Parliament *(reg. No. 6401 of April 20, 2017)*.

101. The draft proposes to reduce the term of appellate review of a case about application of administrative detention up to 3 days *(currently that term is 20 days)*. Such amendments are needed because the ECHR, while considering cases about application of administrative detention, pays a specific attention to the necessity of respecting a principle of legal certainty by courts, consequently the national legislation must have clearly formulated conditions of deprivation of liberty. Further, the draft proposes to exclude sanction of an administrative detention from certain articles of the Code of Administrative Offences *(CAO)*, but to extent maximum limits of other types of sanctions.

On leisure activities for detained foreigners *(response to paragraph 51 of the Report)*

102. According to the Instruction on the procedure for the detention of persons within the bodies (divisions) for the protection of the external border *(adopted by the Order of the MoIA No. 352 of March 30, 2015)*, distracting detainees from routine in THF of the SBS is carried out by: 1) listening or watching radio and television programs, including in a language that detainee understands; 2) reading books, newspapers and magazines; 3) outdoor walks; 4) practice their religion; 5) engaging in for non-contact kinds of sport. Detained persons once in 2 days also can order for their money books, newspapers and magazines in quantities they need.

103. All comments and recommendations provided in the CPT’s Report relating to the SBS activity were brought to the attention of the staff of the Service. Corresponding measures are taken to implement them.

On certain aspects of functioning of the THF of the SSU *(responses to paragraphs 52, 53 of the Report)*

104. According to the information of the SSU in order to implement recommendations provided in the CPT’s Report the management of the THF improved sanitary and hygienic conditions of detention. In particular, detainees are given the opportunity to take a shower twice a week.

105. The issue for restoration of the functioning of the pre-trial detention centres within the SSU is still addressing. The draft law «On Amendments to the Laws of Ukraine» On Pre-trial

Detention» and «On the Security Service of Ukraine» (*reg. No. 6521 of May 26, 2017*) is under consideration of the Parliament. This draft aims to establish the legal basis for the functioning of the existing pre-trial institution of the SSU and to extend to it the procedure for preliminary detention established by the Law of Ukraine "On Preliminary Detention".

106. Regarding the CPT's recommendation on transferring the responsibility for the SSU THF to the MoJ, the SSU reported that its functioning within the SSU corresponds with the Ukrainian legislation, in particular, Article 216 of the CPC, Article 2 of the Law "On the Security Service of Ukraine", Articles 4, 5 of the Law "On Combating Terrorism", Article 7 of the Law "On counterintelligence activity". Taking into account the fact that the SSU's THF is both functionally and technically integrated into the system of the SSU possible transfer of that detention facility to the State Criminal Execution Service of Ukraine (*SCES*) would negatively impact on the quality of execution of tasks and aims of the SSU determined by the legislation.

Section IV. Penitentiary system

Regarding the improvement of the material conditions for the imprisonment of convicted and detained persons (*responses to paragraphs 54-56, 62-70, 108 of the Report*)

Kyiv Pre-trial Detention Centre

107. The Administration of the SCES set up a working group for the implementation of organizational and technical measures for the capital repair of the objects of the Kyiv Pre-trial Detention Facility.

108. In December 2018, after a capital repair, one of the buildings of the Kyiv Pre-trial Detention Facility was opened. 25 cells with a living area of 450m² were renovated and the operation of bath was restored. Putting the building into operation will allow creating more than 100 additional sleeping accommodations, herewith taken into account the norm of the area of 4m² per prisoner, provided full natural lighting of the cells, updated engineering networks, and insulated facade.

109. In 2019, it is planned, in particular, to direct the expenditures of the general fund of the State Budget of Ukraine to capital repairs of the regime buildings and the medical part of the Kyiv Pre-trial Detention Facility in the amount of 120 million hryvnas. Capital repair will cover about half of the total number of places in the Kyiv Pre-trial Detention Facility.

110. For the purpose of resolving the issue of overcrowding in the Kyiv Pre-trial Detention Facility according to the orders of the MoJ of September 17, 2018 No. 3620 and № 3624 districts of detention facilities with a planned capacity of 55 and 15 people are established in the Bucha Penitentiary (*No. 85*) and in the Boryspil Penitentiary (*No. 119*).

111. The direction of the Pre-trial Detention Facility is constantly taking measures to improve the technical condition of the buildings. Disinfection of the regime buildings of the institution is carried out monthly, the administration concluded contracts with LLC "PROFDES" of the city of Kiev on the realization of a complex of anti-epidemic measures in the territory and in the buildings (*deracination and disinfestations*). The administration of the Kyiv Pre-trial Detention Facility developed schedules of the sanitary treatment of the regime buildings with the involvement of convicted economic servants. The cleaning equipment is available in each cell. All cells of the Kyiv Pre-trial Detention Facility are connected to the system of centralized water supply at PJSC "AK KYIVVODOKANAL". Also, the Kyiv Pre-trial Detention Facility is connected to the system of district heating of PJSC "Kyivenergo", the air temperature in cells does not fall below 18C°. There is natural ventilation in the cells of the Kyiv Pre-trial Detention Facility.

112. Due to the lack of adequate funding for the complete reconstruction of the regime buildings, the direction of the Kyiv Pre-trial Detention Facility, as far as possible, solves current problems by attracting charitable organizations. The equipment of plumbing and sewage systems is outdated and needs reconstruction. Kyiv Pre-trial Detention Facility is funded within the budget allocations by 100% at the expense of state funds.

113. The issue of the allocation of cloth for tailoring material things was resolved in order to provide convicted and detained in the Kyiv Pre-trial Detention Facility, namely, 802 mattresses, 801 pillows, 744 sheets and 614 pillowcases will be sewed in the closest time.

Chernivtsi Pre-trial Detention Centre

114. In 2018, in Chernivtsi Pre-trial Detention Centre repair work was carried out in the cell premises № 5, 6, 7, 9, 22, 26, 27, 31, 32, 35, 45, 46, 48, 49, 50, 55, 65 including corridors of administrative and regime buildings, the lounge rooms for personnel, the assembly hall, the room for short-term and long-term visits, economic services, observation tower № 1 and 2, as well as the corridor of the utility room.

115. The anti-escape block was constructed on the 2nd section of the perimeter; some parts of the external fence were repaired. The current repair work of the cells № 20 and 34, of the bath premises, investigator rooms, paths in the church yard and walk-in patios for minors was started; separately anti-escape barrier was installed on the 1st section. In addition, a refurbishment of furnace rooms is being carried out in order to increase their size, improve the quality of natural and artificial lighting, and improve the conditions of detention. In the classroom of the Chernivtsi Pre-trial Detention Facility cosmetic repair was carried out. In the near future, replacement of drain pipes and roof overflows in Chernivtsi Pre-trial Detention Facility is planned.

Ivano-Frankivsk Penitentiary Institution

116. For the improvement of the material and living conditions in Ivano-Frankivsk Penitentiary Institution repair works are carried out. In particular, repairs were completed in a prefabricated unit, investigator rooms, isolation cells, cells for the holding of women and minors. Isolation cells were transferred to the first and fourth floor of the first building, as well as they were capitally repaired and equipped with the necessary inventory.

117. The Direction of the Ivano-Frankivsk Penitentiary Institution cooperates with public charitable organizations which free of charge and on a charitable basis provide means of hygiene for women, minors, as well as for prisoners and convicts, who have lost socially useful connections.

Lviv Penitentiary Institution

118. In order to ensure proper living conditions for the detention of prisoners and convicts in Lviv Penitentiary institution, systematic repair works are carried out. Therefore, since the beginning of the year, repairs were carried out in cameras No 90, 91, 92, in which minors are kept, and in other cells of the buildings. A sanitary whitewashing in the cells is carried out annually. Prisoners and convicts are placed in cells with observance of square footage defined by legislation per prisoner. When carrying out repairs in the cells, the beds are arranged in such a way as to ensure the prisoner's personal space. The current repairs of post office corridor have been performed. In the catering facilities windows are replaced with energy-saving ones. The current repair has been performed in fish and vegetable production facilities. The current repairs have been performed in the laundry and shop of the institution.

119. Work is ongoing on the replacing of outdated engineering and communication networks. Since the beginning of the year, the main disposal lines (20m) and internal disposal lines (50m)

have been replaced in Lviv Penitentiary institution. To ensure sufficient fresh air in the cells, negotiations with specialized organizations on the possibility of developing a system of forced ventilation are currently under way. In the summer, ventilation of the cells is carried out in accordance with the schedule.

120. Work is ongoing on the replacement of the outdated sanitary equipment. On the reporting period washers were replaced in 18 cells. In the cells of posts № 8 and 9 and also in the cells where women are kept with children, modern sanitary equipment was installed. In 10 cells, toilets are fenced off by partitions.

Lychakivska Prison (No. 30)

121. In the Lychakivska prison (№ 30) in the dormitory № 1, local section № 1 the roof was repaired; residential sections, premises for meals, bathrooms and dormitories are being repaired. The office rooms and of the one residential section were repaired. Toilet bowls, metal wash stands and water taps were purchased for repair of bathrooms. The roof of the dormitory number 2 was repaired. Residential sections, premises for meals, bathrooms and morale building rooms are being repaired. Toilet bowls, metal wash stands, tile facing, water taps and cement were purchased for the repair of bathrooms. Replacement of old window blocks on metal-plastic in the amount of 18 pieces was carried out.

122. The dormitory № 6, local section № 5 on the second floor were repaired. Residential premises are arranged in block variants with the standard of living space of 4 square meters per person; heating system of residential premises was replaced. The bathrooms were repaired and sanitary-hygienic devices were installed. Old window blocks were replaced on metal-plastic in the amount of 34 pieces. New door blocks were installed and decorative plastering of premises was carried out.

123. Regarding entry into service of the reconstructed Block No. 5 there should be mentioned that the reconstruction of the first floor of the Block No. 5 is completed. Prisoners' accommodation premises are now cell-typed with the standard of living space of 4 square meters per person; heating system was replaced; the repair of the bathrooms with the installation of sanitary-hygienic devices was carried out; old window blocks were replaced on metal-plastic in the amount of 34 pieces; new door blocks were installed; and decorations were placed. As of January 9, 2019, 28 prisoners are being held within the first floor of the Block No. 5. Reconstruction works on the second floor of that Block are planned to be completed in the first quarter of 2019, which will give an opportunity to accommodate 29 prisoners.

124. According to the requirements of the CEC, by the Order of the correctional colony No. 75/OD-18 of February 12, 2018, a social rehabilitation station was put into operation. In order to maintain the microclimate parameters in all premises of the social rehabilitation stations in accordance with the requirements of the State building norms 2.5- 67.2013 a mini-boiler house, equipped with a 50 kW solid-fuel boiler, was put into operation. In order to provide accommodation of dormitories with furniture, funds are being sought for the purchase of softwood timber and for the manufacturing at the prison enterprise domestic stools, bedside tables and dining tables. Over the one reporting year more than 50 beds, 40 stools, 50 bedside tables, 2 kitchen tables and benches were manufactured and delivered for the needs of the prison.

125. Nutrition of the convicts in the prison is carried out in accordance with the norms on nutrition of persons held in penitentiary institutions, investigative detention centres of the SCES, temporary detention centres, reception centres and other reception centres of the NP. Cooking is carried out from foodstuffs that come to the dining room from the food warehouse of the prison in accordance with the invoices. The main foodstuffs come centrally (*flour, cereals,*

fish, meat, oil, sugar, canned meat and fish). Prisoners are provided with three hot meals in accordance with the menu production record of food items approved by the head of the prison. At the expenses of the special fund 16 tanks with a lid were purchased for the provision of prisoners with boiled water which are installed at the departments of the social-psychological service of the prison.

126. According to the information of the General Directorate of the SCES for 10 months of 2018, 712,7 thousand hryvnas were raised to increase the level of operational safety of buildings and engineering structures in the aforementioned penitentiary institutions at the expense of the funds of the general and special funds of the state budget which allowed to carry out the current repair of 23 objects, in particular: 4 objects for the amount of 82.8 thousand hryvnas in Ivano-Frankivsk Penitentiary Institution; 5 objects for the amount of 99.7 thousand hryvnas in Lviv Penitentiary institution; 7 objects for the amount of 331.7 thousand hryvnas in the Kyiv Pre-trial Detention Facility; 1 object for the amount of 50,000 thousand hryvnas in the Chernivtsi Pre-trial Detention Facility; and 6 objects for the amount of 148.5 thousand hryvnas in Lychakivska prison (No. 30).

127. Also, the bodies of the SCES have developed a Plan of implementation of measures for the modernization of the perimeter areas.

Regarding the financing of the penitentiary system (*response to paragraph 56 of the Report*)

128. According to the information of the Ministry of Finance of Ukraine, in the State budget for 2018 expenditures for the SCES are provided in the amount of 6.4 billion hryvnas, of them on general funds - 6.2 billion hryvnas, which is on 1.9 billion hryvnas (or 44%) more in comparison with 2017. In 2019, the Law of Ukraine "On the State Budget of Ukraine for 2019" provides expenditures for the penitentiary system in the amount of 6.7 billion hryvnas, of them on general funds - 6.5 billion hryvnas, which is on 264 million more than in 2018. The distribution of expenditures for specific areas of expenditure is carried out directly by the MoJ as the main manager of budget funds.

129. In 2019, financing is provided for the capital repair of the regime building of the Kherson Pre-trial Detention Facility in the amount of 80 million hryvnas and also the reconstruction of the buildings is completed in such institutions as Golopristsanskaya prison (No. 7), Raikovskaya prison (No. 73), Kolomyia prison (No. 41) and Vilnyanska Penitentiary institution (No. 11).

Regarding the standard of living space for detainees (*response to paragraph 57 of the Report*)

130. In accordance with the Article 11 of the Law of Ukraine "On pre-trial detention" for today the norm of living space per person in a pre-trial detention centre is 2.5 m². The Parliament adopted in the first reading the draft Law of Ukraine «On Amendments to the Law of Ukraine" On Pre-trial Detention» (regarding the implementation of certain standards of the Council of Europe)" (*reg. No. 2291a of July 06, 2015*) that provides increasing the standard of living space per person, taken into custody, up to 4 m².

Regarding access of prisoners to the shower (*response to paragraph 70 of the Report*)

131. For the fulfilment of this recommendation of the CPT on the necessity of compliance of periodicity of taking shower by convicts and prisoners with the rule 19.4 of the European Prison Rules, was prepared a draft order of the MoJ "On Approval of Amendments to the Order of the MoJ No. 849/5 of June 08, 2012". After adoption of the draft order, the prisoners and convicts will be able to use the bath at least twice a week.

Regarding the monitoring visit of the NPM to the Chernivtsi Pre-trial Detention Facility
(response to paragraph 58 of the Report)

132. Given that sector of the maximum level of security had been liquidated, the State Institution "Chernivtsi Penitentiary Institution No. 33" was renamed the State Institution "Chernivtsi SIZO" in September, 2018. The prisoners sentenced to life imprisonment are no longer held there.

133. As a result of the monitoring visit to the Chernivtsi Pre-trial Detention Facility carried out on October 19, 2017 by the Ombudsman's Office together with public monitors, a number of violations in medical service and disinfection of premises were identified; the need for the current repair of the institution was noted.

134. On the day of the monitoring visit minors were not held in the institution.

135. Information concerning the cases of verbal abuses, harassment and humiliation of prisoners by the staff was not confirmed. During confidential interviews with prisoners they did not report about these mentioned cases and denied their existence.

136. In order to further ensure the proper functioning of the Chernivtsi Pre-trial Detention Facility, including the elimination of the violations identified during the abovementioned monitoring visit, an appropriate action plan was developed and a number of measures were taken, in particular:

- in order to provide drinking water for prisoners and convicts, drinking water tanks were installed in all the cells. The water in the tanks is replenished daily from the canteen of the facility, and, if necessary, more often;
- for the temporary stay of persons taken into custody, the new premises were properly equipped. The premises, caused negative complaints during the monitoring visit, are not currently used, they are planned to be rebuilt;
- the plumbing equipment, windows and doors in the bath for prisoners were completely replaced for new metal-plastic ones;
- in order to properly illuminate the cells conventional incandescent lamps were replaced with modern LED lamps;
- 21 cells were repaired having changed the sanitary equipment;
- cells in solitary confinements are being repaired;
- in order to prevent violations of living space per prisoner prescribed by the current legislation extra beds in cells were removed.

137. In order to improve the quality of medical care provided to prisoners and detainees, including the elimination of the violations identified during the abovementioned monitoring visit, an appropriate action plan was developed and a number of measures were taken as well, in particular:

- medical supplies and other material assets were transferred from the balance of this pre-trial detention facility to the balance of the state institution "Health Care Center of the SCES" *(order of the MoJ No. 4544/7 of November 12, 2018)*;
- Chernivtsi city medical unit No. 33 prepared a package of documents necessary for obtaining a license for medical practice;
- pre-trial detention facility was equipped with a stationary department for somatic patients;
- disinfector duties were assigned to the junior nurse.

On combating inter-prisoner violence and informal prisoner hierarchy *(response to paragraph 59 of the Report)*

138. Operational officers of the SCES are permanently carrying out measures to prevent inter-prisoner violence within the prisons and pre-trial detentions centres. In a course of 2018, 3 acts of homicide *(under Article 115 of the CC)* and 2 cases of heavy bodily injuries *(under Article 121 of the CC)* were revealed. In 2017, these numbers were 6 and 7 respectively, which indicates on decreasing of inter-prisoner violence.

139. Pursuant to the Procedure of Recording of Criminal Offences and Other Extraordinary Events within Prisons and Pre-Trial Detention Centres, approved by the MoJ Order No. 254/5 of February 02, 2017, investigation units of the law enforcement agencies shall be properly notified on each cases of identification of bodily injuries on prisoners and those on remand.

140. Regarding eliminating informal prisoner hierarchy, the prisons` and THFs` administrations perform operational-preventive measures to neutralize the influence of inmates` "leaders" on the rest of the prisoners and avoid possible unlawful actions committed by such "leaders". In 2018, 130 prisoners were brought to criminal liability under Article 391 "Persistent disobedience to the prison administration" of the CC and 2 prisoners received convictions under Article 392 "Disorganization of prison`s functioning" of the CC. These convicted prisoners are prominent violators of the prison regime trying to return "criminal traditions and customs" and spread their influence on other prisoners.

141. Concerning the CPT`s observations of inter-prisoners violence at the Kyiv SIZO there should be mentioned that a set of organizational-practical measures have been taken in order to bring the order and ensure appropriate conditions of detention of remand prisoners at the Kyiv SIZO. Particularly, the management of the Kyiv SIZO was completely substituted in 2018.

Regarding the incident of violence among prisoners, that occurred in April 2017 *(response to paragraph 60 of the Report)*

142. The Investigative Unit of the Shevchenko Police Department of the Main Department of the NP in Kyiv prosecuted criminal proceeding No. 12017100100004324 under the Part 2 of Article 121 of the CC on the fact of causing a closed craniocerebral trauma, fractures of the right hand bones and other bodily injuries to the arrested citizen M. in the Kyiv Pre-trial Detention Facility, as a result of which on April 14, 2017 he died at the Kyiv City Clinical Hospital of ambulance.

143. As a result of the investigation it was established that on April 11 the arrested citizen X on the ground of personal hostile relations inflicted heavy bodily injuries to the arrested citizen M. from which the last died.

144. After the completion of the pre-trial investigation, an indictment of January 1, 2017 regarding citizen X under the Part 2 of Article 121 of the CC was forwarded to the court by the Kyiv local prosecutor's office No. 10. As of today, the trial is ongoing.

145. Regarding the provision of more detailed information on the conducted investigative actions, as well as copies of materials of criminal proceedings, it should be notified that according to the Article 222 of the CPC such information is a secret of pre-trial investigation process and therefore is not subject to disclosure.

Regarding the activities of the operational staff of the penitentiary institutions *(response to paragraph 61 of the Report)*

146. According to the CPC the operational units of the penitentiary institutions are authorized to carry out investigative activities in these institutions. The main task of such activity is to search and fix facts on the illegal activities of individuals and groups aiming at: assurance of security of prisoners, prison staff and other persons, prevention and disclosure of crimes, committed in prisons as well as violations of the established order of service; study of roots and causes that affect the commission of crimes and other offenses; provide law enforcement agencies, conducting investigative activities or criminal proceedings, with assistance in disclosing, stopping and preventing of crimes.

147. According to the part 4 of Article 7 of the Law of Ukraine "On Investigative Activity" the operational units of the SCES conduct investigative actions and secret investigative actions in criminal proceedings by the order of the investigator and prosecutor as set forth in the CPC. Written orders for the conduction of investigative actions and secret investigative actions provided by the investigator and prosecutor within their competence and in the established order are obligatory for the execution by the operational unit.

148. The conduction of investigatory activities by the operational staff of the penitentiary institutions and pre-trial detention facilities regarding crimes committed by convicts or detained persons outside of these institutions is not provided by the legislation.

149. The documentation of the illegal activity of perpetrators by the operational staff of the Kyiv Pre-trial Detention Facility is carried out within the framework of cooperation between the Administrations of the SCES and the NP. Currently, there are no cases of threats by the authorized officers of the Kyiv Pre-trial Detention Facility operational unit regarding the use of violence against prisoners in order to confess the latter in the committed crimes.

150. All incidents of bodily injury or death among convicts and prisoners are documented. On all cases the investigative team of the Shevchenko police department of the Main Department of the NP in Kyiv is called.

151. The Constitutional Court of Ukraine in its decision No. 3-p/2018 of April 24, 2018, recognized as incompatible with the Constitution of Ukraine (unconstitutional) Article 216 of the CPC according to which "the penitentiary investigators of the SCES were authorized to conduct pre-trial investigations of crimes, committed on the territory or in the facilities of the SCES".

Regarding Leisure Activities for the prisoners *(response to paragraphs 71-75 of the Report)*

152. According to the requirements of the Law of Ukraine "On pre-trial detention" and the internal rules of the Pre-trial Detention Facility the detention regime does not imply any activity outside the cell, except walking. At the same time, prisoners are involved, without payment for their labour, in the work related to the creation of proper sanitary and domestic conditions and the ordering of the place of pre-trial detention. The prisoners are involved in such work in turns in a free from conducting investigative actions time and no more than two hours during the day.

153. Aiming at increasing the effectiveness of social and morale-building work with prisoners and the normative regulation of this field of activity, the MoJ approved programs of differentiated educational effects, such as: «Education», «Profession», «Legal education», «Spiritual revival», «Creativity», «Physical culture and sports», «Overcoming alcohol dependence», «Overcoming drug addiction», «Preparation for release». Further, in order to facilitate persons who are preparing for release from serving a sentence, in restoring the social status of a full member of a society, returning them to an independent, generally accepted social and normative life in a society, MoJ, Ministry of Social Policy (*MoSP*), MoH and

MoIA by joint order No. 974/5/467/609/280 dated April 3, 2018 approved the Procedure for cooperation between penitentiary institutions, authorized probation bodies and social patronage subjects during the preparation for the release of persons serving sentences in the form of restraint of liberty or deprivation of liberty for a specified period of time

154. Regarding certain separate visited institutions it should be noted that in the Chernivtsi Pre-trial Detention Facility measures are taken for the leisure of prisoners and convicts outside the cells and therefore walk yards are equipped with sports equipment, bars, curbs and tables for table tennis. Prisoners and convicts, detained in the Chernivtsi Pre-trial Detention Facility, including minors, are given the opportunity to visit the psycho-emotional unloading room in which representatives of various religious denominations work daily, and the possibility to visit the Orthodox Church. In addition, specialists from the Chernivtsi City Center for Social Services for Family, Children and Youth work with young people and minors. The issue of re-equipment of one large chamber in the gym for the opportunity for minors, women and prisoners of economic service is being solved.

155. Sports gear is installed in the walking yards of the Lviv Penitentiary institution. A walking yard for mother and child has been renovated, painted and equipped with necessary equipment. In the Lviv Penitentiary institution prisoners and convicts have the opportunity to use a library in which there are 6965 copies of fiction and 1008 copies of textbooks. With the assistance of public and religious organizations religious events are held with prisoners in the equipped chapel. Also arrangements of religious content of different denominations are held with the sentenced to life imprisonment.

156. At the Lychakivska prison (No. 30) there is a film club for the organization of regular exhibitions of educational, legal, historical and other types of documentary and feature films. Prison cooperates with many religious, charitable and public organizations, whose representatives help in organizing and conducting educational activities for prisoners. «The Open Door Day» is organized periodically. Also, a fruitful cooperation was established with the Second Lviv Local Centre for Granting free secondary legal aid, which representatives and appointed lawyers, periodically visit the institution and provide legal advice to prisoners. There is a stadium on the territory of Lychakivska prison where football matches, both among the prisoners and with the participation of representatives of the organizations with which the prison cooperates, take place. On the territory of local districts there are sports grounds. Also, the prisoners have the opportunity to play table tennis, checkers, backgammon and dominoes.

157. As regards individual sentence planning and preparation for release (*response to paragraph 73*) there should be mentioned that within the joint EU and CoE Project “Further Support to Penitentiary Reform in Ukraine” in a course of 2018 the Courses of Development of Social and Living Skills of Prisoners were developed and introduced in the prisons. The Courses were included into the training programs of the Bila Tserkva Training Centre where social workers and psychology staff of the prisons and pre-trial detention centres undergo skills development trainings. Further, in cooperation with the Probation Project Office and the UNICEF Office in Ukraine with involvement of juvenile prisons’ staff the risk and needs assessment instruments for juvenile prisoners were developed and piloted within the three juvenile prisons. Methodology of these instruments, including individual sentence planning and subsequent preparation for release, will be inserted into the practice after legislation amendment will occur (*such necessary amendments are put into the draft law on penitentiary system*).

158. Additionally, within the NORLAU Probation Project a pilot testing of a risks and needs assessment is launched, including such elements like prisoners’ plan for release and reintegration programs. As part of that Project two working groups were launched with involvement of staff of Bila Tserkva Prison (No. 35) and Kachanivska Prison (No. 54) in order

to create new methods of prisoners' preparation for release activity and improve existing ones. Totally, more than 9,8 thousands of prisoners underwent a differentiated program "Preparation for release" in 2018.

159. With respect to engaging inmates at Kremenchuk Juvenile Prison in vocational training (*response to paragraph 75*) it was reported that 42 juvenile inmates serve their sentences within the Kremenchuk Juvenile Prisons nowadays, out of which only 10 do not have vocational education. These prisoners undergo vocational trainings at the vocational training centre within that juvenile prison, thus all the relevant inmates are now covered with the education. Furthermore, various courses and workshops (*"Choreography", "Pastry chef", "Informational Technologies", etc.*) are being conducted to juvenile prisoners in order to help them to obtain professional skills.

Sentenced to life imprisonment

Regarding the regime for sentenced to life imprisonment. Access to the Internet (*response to paragraph 79 of the Report*)

160. According to the provisions of Articles 100, 151-1 of the CPC, depending on the conduct, study and attitude to work, if any, sentenced to life imprisonment after leaving to the Ward-type Room in which two persons not less than five years of sentence are kept, can be transferred to multi-seated Ward-type Rooms of the prison (*sector*) of the maximum level of security. After the actual serving of not less than five years of sentence in multi-seated Ward-type Rooms of the prison (*sector*) of the maximum level of security, sentenced to life imprisonment may be transferred to ordinary residential premises of the prison of maximum security.

161. Appropriate amendments made to the CPC allow after a ten years of sentence for behaviour and attitude towards work after five years of sentence, for a prisoner to take part in group activities of educational, cultural, mass and recreational nature.

162. The Kyiv Pre-trial Detention Facility is equipped by an Internet class for sentenced to life imprisonment in the sector of the maximum level of security. The prisoners are informed about prohibition of using sites which are not included in the list of permitted.

Regarding the use of service dogs while conveying sentenced to life imprisonment (*response to paragraph 80 of the Report*)

163. The CPT's requirement to terminate the practice of using service dogs without muzzles while conveying sentenced to life imprisonment to the buildings beyond the cells was taken into consideration during the preparation of legal acts regulating the activities of penitentiary institutions. Thus, according to paragraph 2 of section XXXIII of the Rules of the Internal order of penitentiary institutions, approved by the Order of the MoJ No. 2823/5 of August 28, 2018, it is prohibited to engage a cynologist with a service dog while conveying sentenced to life imprisonment within the building of the Ward-type Room of the prison (*sector*) of the maximum level of security.

164. Engagement of cynologist with a service dog is provided while conveying of sentenced to life imprisonment within the territory of the penitentiary institution with the obligatory consideration of the physical defects of the sentenced and their health condition. When conveying women sentenced to life imprisonment within the territory of the penitentiary institution cynologist with a service dog is not involved.

Regarding the parole release for sentenced to life imprisonment (to the paragraph 81 of the Report)

165. In April 2017, a draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Adaptation of the Procedure for the Application of Certain Criminal Institutions to European Standards" was registered in the Parliament (*reg. No. 6344 of April 11, 2017*) provisions of which, in particular, determine the grounds and procedure of parole release from serving punishment for sentenced to life imprisonment. For today, the abovementioned draft law is included in the agenda of the ninth session of the Parliament of Ukraine of the eighth convocation for consideration at the plenary session.

Penitentiary Healthcare (response to paragraphs 82-96 of the Report)

166. As part of the reform of the penitentiary health system the Government signed an order No. 684 of September 13, 2017 on the establishment from November 01, 2017 of the state institution "Healthcare centre of the State Criminal Execution Service of Ukraine". By the MoJ Order No. 3394/5 of November 02, 2017 the Healthcare centre of the State Criminal Execution Service of Ukraine was established; the staff list and the Regulation on the Healthcare centre of the SCES were approved.

167. In order to increase the effectiveness of the control over the organization of health care for convicts and detainees in each region (20) (*except for areas with a small number of penitentiary population and number of SCES institutions*) the branches of the healthcare centre of the SCES were created, which allowed to respond more quickly and promptly to questions that arise during the activity of healthcare institutions, to interact directly with Region state administrations, take part in regional coordination councils, coordinate activities of relevant regional non-governmental organizations working in the field of health care.

168. As of January 10, 2019 all functions in a prison healthcare realm are administrated by the Health Care Centre of the SCES. Staffing table of that Health Care Centre composes of 2559 posts; 1961 posts are filled (77% from the staffing table). Recruitment process continues, the percentage of the occupied positions is increasing every day.

169. Responding to paragraph 85 of the Report, the actual information on staff teams within the penitentiary establishments visited is provided in Annex No. 9.

170. In the process of recruiting healthcare workers, the staffing of the administration and the affiliates of the healthcare centre of the SCES is constantly being optimized. The healthcare centre of the SCES sent a request for the allocation of additional funding for the training of medical personnel.

171. Regarding medical workers in the Lychakiv Colony (*No. 30*), as described in paragraph 85 of the report, in the staffing of the medical unit No. 30 of the Lviv branch of the healthcare centre of the SCES there are 12 wage rates of medical workers, of which currently occupy 7.75 rates (65%), in particular, doctor's positions are staffed with 75%.

172. With the participation of specialists of the healthcare centre of the SCES, amendments were made to the Government Resolution No. 566 of July 18, 2018, "On Amendments to the Cabinet of Ministers of Ukraine Resolution of 14.07.1993. №534». These legal acts increase the salaries of employees of health care institutions for special conditions related to working with convicted persons, in the amount of up to 50%. At present, the average salary of the medical staff of the SCES is on average 2 times higher than the salary in the public sector.

173. The organization of primary, secondary (*specialized*) and palliative care is carried out in accordance with the requirements of legal, regulatory and organizational acts of the MoH. The treatment of prisoners and persons who have been taken into custody with any illness is based on the principles of impartiality and in accordance with the requirements of the

relevant clinical protocols and guidelines. Medical personnel are constantly paying attention to the injuries that arise in persons who have been taken into custody and convicts, conducting official inquiries and describing injuries and traumas in medical records. The systematic study of the recommendations of the "Istanbul Protocol" and the "Rules of Nelson Mandela" by medical practitioners has been introduced.

174. In order to improve and optimize the provision of psychiatric assistance to prisoners and detainees, a separate psychiatric unit is planned to be launched within the Kyiv City Psychiatric Hospital No. 1.

175. HealthCare Centre of the SCES has clearly defined the direction of movement aimed at ensuring the change of strategic priorities for the treatment of prisoners with mental health disorders caused by psychoactive drugs, in particular through: 1) increasing the disclosure of diseases with mental disorders and behaviour as a result of the use of psychoactive substances; 2) extending and improvement of the range of services for treatment and prophylaxis for patients with mental and behavioural disorders due to the use of psychoactive substances among convicts and detainees; 3) work on the preparation of a manual and the introduction of rehabilitation programs for prisoners and detainees with psychological and behavioural disorders caused by the use of psychoactive substances in pilot institutions; 4) implementation of the pilot project "Integrated treatment with the use of substitution maintenance therapy for prisoners with mental and behavioural disorders caused by the use of opioids in the Buchanska Colony No. 85"; 5) spreading of comprehensive treatment programs using substitution maintenance therapy for prisoners with mental and behavioural disorders caused by the use of opioids in other penitentiary institutions. Also, funds are allocated for the testing and treatment of patients with hepatitis B and C.

176. With the support of the United Nations Global Fund against AIDS, Tuberculosis, Malaria provision of medicines for the treatment of patients with tuberculosis and HIV / AIDS, of persons taken into custody and convicts in penitentiary institutions of the SCES is fully secured. The Global Fund operates in all 122 penitentiary institutions in the direction of prevention and treatment of socially dangerous diseases and provides technical support.

177. The Procedure for providing medical assistance to the convicts, approved by a joint order of the MoJ and MoH No. 1348/5/572 of August 15, 2014 specifies, in particular, that medical examinations (*surveys*) of convicts are carried out outside the confines of hearing and (*if the medical officer does not want another in each particular case*) outside of the appearance of non-medical personnel (*paragraph 10 of Section I*). Documents containing information on the state of health of the convicted person and the provision of the necessary medical care should be kept with observance of the conditions guaranteeing the confidentiality of this information. The procedure for access to the medical records of the personnel of the penitentiary institution is determined by a separate order of the head of this institution (*paragraph 24 of section I*). Upon arrival at the penitentiary institution, all convicts undergo a primary medical examination during the day in order to identify persons who have suffered injuries, persons who constitute an epidemic risks for environment or in need of medical care, and persons with pediculosis (*first paragraph of Chapter 1, Section II*).

178. The results of the primary medical examination are recorded in the medical record No.025/o, which is sent from the pre-trial detention facility together with the convict's personal case (*section 2, chapter 1, section II*). In case of identification of the injuries, the medical worker immediately informs the management of the penitentiary institution and draws up the certificate in three copies, detailing the nature of the damage, their size and location. Two copies of the certificate are included in the personal file and medical record No.025/o, and the

third copy is given to the convicted person (*third paragraph of Chapter 1, Section II*). On the fact of finding bodily injuries of the convicts the management of the penitentiary institution shall inform the prosecutor in writing within 24 hours from the time of the detection of bodily injuries, and also to record in the register of the identification of bodily injuries of persons who arrived at the penitentiary institution the form for which is given in Annex 3 to this Procedure (*paragraph 4 of chapter 1, Section II*). It should be noted that the aforementioned norms are also provided for in the Procedure of interaction between the health care institutions of the SCES and the health care institutions on the issues of providing medical care to the persons taken into custody, approved by a joint order of the MoJ and MoH No. 239/5/104 of February 10, 2012.

179. The MoJ drafted joint orders with the MoH "On Approval of Changes to the Procedure for the Interaction of Health Care Institutions of the State Criminal Execution Service of Ukraine with Health Care Institutions on the Issues of Medical Assistance to Persons Held in custody" and "On Approval of Amendments to the Procedure for the Provision of Medical Aid to the Convicts", according to which it is proposed to make a number of changes, in particular, regarding the implementation of the procedure for the fixation of bodily injuries in conducting a preliminary examination of convicted persons or persons taken into custody upon their arrival to the penitentiary institutions or pre-trial detention facilities, namely, to provide that in case of detection of injuries of convicted person or a person taken into custody, the medical officer draws up the certificate in three copies, detailing: 1) the statement (written statement, oral or written explanation) of the convicted person or person taken in custody, concerning medical examination (including information about ill-treatment); 2) the assumption of the medical officer in view of the statement of the convict or the person taken into custody and objective medical indicators, as well as the justification of their correlation; 3) exhaustive description of objective medical indicators, the nature of the damage, their size and location.

180. According to the draft order, the medical officer also adds photographs of the existing bodily injuries of the convicted person or a person taken into custody to the Certificate. Two copies of the certificate are attached to personal files and medical record 025/o of the patient and third copy is given to the convicted person. In addition, it is proposed to establish that information on the fact of detecting bodily injuries is made by the head of the medical unit and the chief (*duty assistant*) of the penitentiary institution or pre-trial detention facility in the registers of identifying bodily injuries of persons, who were taken into penitentiary institution or pre-trial detention facility which is stored in the medical unit (*paramedic station*) of the Health Centre's branch of the State institution "Healthcare centre of the SCES".

181. Also, the draft stipulates the right of persons taken into custody and convicts to apply in writing to the health care institutions of the SCES in order to obtain accurate and complete information about his health, including access to relevant medical documents relating to his or her health. A convicted person or a person taken into custody has the right to appoint an authorized person for access to his medical card in the prescribed manner. Documents containing information about the state of health of the convicted person or a person taken into custody and the provision of necessary medical care should be kept in compliance with the conditions guaranteeing the confidentiality of this information. The procedure for access to medical records of a penitentiary institution or a pre-trial detention centre is determined by a separate order of the head of a penitentiary institution or a pre-trial detention centre.

182. The procedure for the transfer of property, medicines and medical supplies from penitentiary institutions to the "Healthcare centre of the SCES" continues. Currently, the Healthcare centre of the SCES conducts procedures for the purchase of medicines and medical devices through the electronic system "Prozzorro" for a total amount of 159.1 million UAH of which contracts have already been concluded for: 67.8 million UAH, namely: 1) an agreement

on the purchase of anti-TB medicines for the amount of 36.0 million UAH was signed, according to which the medicines are currently being received by the branches of the healthcare centre of the SCES; 2) an agreement on the purchase of disinfection means for the amount of 8.9 million UAH was signed, according to which the delivery of goods in full volume was made. Currently the distribution of the goods between the branches of the healthcare centre of the SCES of the is carried out; 3) an agreement was signed on the purchase of medicines for the treatment of patients with somatic diseases for the amount of 22.9 million UAH, delivery of which started on 20.11.2018 according to the supply schedule.

183. Also, procedures for the purchase of medical products, and other drugs for the amount of UAH 91.3 million, which will be delivered by the end of the 2018, are continuing. In addition, procedures for the purchase of medical equipment for a total amount of 130.0 million UAH are ongoing, of which contracts for 4.6 million UAH were concluded, including equipment for operational units - 3.3 million UAH, and binocular microscopes - 1.3 million UAH.

184. In 2018, all procedures for the purchase of medicines, medical products, and medical equipment were conducted for the total amount of 295 million UAH that is 5.2 times more than it was allocated in 2017. Such state of affairs will enable in 2019 to provide prisoners and who's on remand with full treatment of general-somatic diseases, diseases of the active form of tuberculosis, HIV/AIDS and to start selective treatment for patients with viral hepatitis C.

185. In 2018, there was a permanent control over the provision of both primary and secondary medical care in the health facilities of prisons and SIZOs, which led to reducing of death rates (*554 deaths in 2017 and 484 deaths in 2018*).

186. The management of the Healthcare centre of the SCES is continuously conducting explanatory work on compliance with the requirements of the current legislation regarding the provision of medical care to the convicted persons and persons taken into custody.

187. With respect to trainings for healthcare staff working in prisons (*response to paragraph 82*), there has to be mentioned that 6 trainings have been conducted for the penitentiary healthcare staff in 2018 financially supported by the UN Global Fund against AIDS, Tuberculosis and Malaria and NGO "Path". Additional two conferences were carried out by the HealthCare Centre of the SCES to discuss actual issues in the prison health care system with participation of regional offices of the HealthCare Centre of the SCES and heads of medical units within the prisons and SIZOs. Detailed information concerning trainings conducted is provided in Annex No. 10.

188. As regards to ceasing a practice of using prisoners as medical orderlies (*response to paragraph 86*), that issue is under consideration by the MoJ. To begin with, the Healthcare Centre of the SCES together with the MoJ is considering a possibility to extend staffing table with 250 positions of paramedical personnel.

189. Regarding refurbishment at the Lviv Prison Hospital (*response to paragraph 94 of the Report*) there should be mentioned that necessary refurbishments have been carried out to ensure the sustainable functioning of the Lviv multi-profile Hospital for inmates No. 19. The work on the extension of sanitary facilities is in process.

190. The General Prosecutor's office reports, that in order to comply with the recommendations of the ECHR regarding the completeness of the investigation of cases of torture and other ill-treatment and the proper assessment of the actions of medical personnel, criminal proceedings under Article 140 of the CC are commenced for almost every death of prisoners/convicts. The legality of medical workers' activities is checked by an investigative procedure.

On the penitentiary staff (*response to paragraphs 97-98 of the Report*)

191. In 2018, the level of staff filling of the penitentiary institutions remained at almost the same level. It should be noted that penitentiary institutions constantly take measures to fill vacancies. Staff services are advertised in regional and local mass media, and cooperation with employment centres has been established regarding the placement of information on recruitment into the penitentiary system.

192. As of January 01, 2018, there were 24,146 employees in the penitentiary institutions, and as of December 01, 2018 there were 24,143 employees. As of January 01, 2018, the actual number of regime personnel was 14,395 employees, and as of December 01, 2018 this figure amounted to 14,420 people.

193. As of January 01, 2018, the actual number of administrative staff of the territorial departments of the SCES and Administration of the SCES was 668 persons, and as of December 01, 2018 their number increased up to 703 persons.

Kyiv pre-trial detention centre

194. As of November 14, 2017 according to the approved structure Kyiv pre-trial detention facility the staff of the institution was 522 units, of which posts of middle and senior officers - 119, junior command personnel - 298, employees, as well as employees who do not have special titles - 105. The total lack of staff was 45 units. Of these: the middle and senior officers - 18, junior command personnel - 27 units. Cash provision for 2017 amounted to middle and senior management staff of 8550 UAH per month. For privates and junior officers of 5890 UAH per month.

195. As of November 14, 2018 according to the approved structure Kyiv pre-trial detention facility the staff of the institution is 485 units, of which posts of middle and senior officers - 109, junior command personnel - 298, employees, as well as employees who do not have special titles - 78. The total lack of certified personnel as of 14.11.2018 is 53 units, of which posts of middle and senior officers - 9 units, junior officers - 44 units. Cash provision for 2018 amounted to middle and senior management staff of 17037 UAH per month. For privates and junior officers of 10521 UAH per month.

196. The issue of the recruitment of vacant posts is under constant control of the leadership of the Kyiv pre-trial detention facility.

Lviv Penitentiary Institution (No. 19)

197. As of December 01, 2017 the prison staff at the Lviv Penitentiary Institution (*No. 19*) was composed of 294 officers (*staffing table was 360 persons*); as of December 01, 2018, 247.5 positions were filled with the staffing table of 283 positions.

Chernivtsi Penitentiary Institution (No. 33)

198. As of December 01, 2017 the prison staff at the Chernivtsi Penitentiary Institution (*No. 33*) was composed of 124 officers (*staffing table was 160 persons*); as of December 01, 2018, 117 positions were filled with the staffing table of 146 positions.

Ivano-Frankivska Penitentiary Institution (No. 12)

199. As of December 01, 2017 the prison staff at the Ivano-Frankivska Penitentiary Institution (*No. 12*) was composed of 161 officers (*staffing table was 199 persons*); as of December 01, 2018, 152 positions were filled with the staffing table of 180 positions.

Lychakivska Colony No. 30

200. As of December 01, 2017 the prison staff at the Lychakivska Colony No. 30 was composed of 180 officers (*staffing table was 235 persons*); as of December 01, 2018, 194 positions were filled with the staffing table of 224 positions.

Regarding social workers in penitentiary institutions (*response to paragraph 98 of the Report*)

201. According to the order of the MoJ of January 01, 2018 No. 50/k, 3440 permanent staff units are provided to ensure fulfilment of probation tasks. As of January 01, 2019, 3199 positions are filled, which is 93% of full capacity.

202. The actions of the staff of the probation agency in the direction of penitentiary probation are regulated by the joint order of the MoJ, the MoSP, the MoH, the MoIA No. 947/5/467/609/280 of March 03, 2018 "On Approval of the Procedure for the Cooperation of Penitentiary institutions, Authorized Probation bodies, Social Patronage Persons during the Preparation for the Release of Persons Serving Punishment in the Form of Restraint of Liberty or Imprisonment for a certain Period", which came into force on May 04, 2018.

203. According to the administration of the penitentiary institution (*pre-trial detention facility*), through the state and local self-government bodies, the authorized probation body assists prisoners preparing for release in: determining the intentions of the place of residence after release; employment of able-bodied persons ; placement in a specialized institution for the released persons, another institution of social care, facility for homeless persons, social services institutions; provision of social services; hospitalization to health care institutions; solving other problematic issues.

204. To facilitate the resolution of these issues, the authorized probation body has the right to: 1) conduct interviews with convicts preparing for release and to get acquainted with the materials of their personal cases; 2) send messages and inquiries to the subjects of social patronage regarding the provision for convicts of services of labour and domestic accommodation on the basis of his chosen place of residence.

205. In case of receipt from the penitentiary institution (*pre-trial detention facility*) of a request-notice regarding the possibility of residence of a convicted person in his chosen place of residence, the authorized probation body applies to the housing and communal services body, the association of co-owners of a multi-storey building or a local self-government body in order to check availability of the living space, persons living in it, and the right of the convicted person to reside in the said premises upon release. In case if the right to live in a residential building will require approval of natural or legal persons, the authorized probation body applies for clarification of this issue to these natural or legal persons.

206. According to the results of the examination of the possibility of residence of the convicted person at the chosen place of residence, the authorized probation officer sends a corresponding notification to the administration of the penitentiary institution (*pre-trial detention facility*).

207. The authorized probation body sends a request-notification to the Ministry of Social Policy of the Autonomous Republic of Crimea, the structural subdivision on social protection of the population of the region, Kyiv and Sevastopol city state administrations, on the chosen place of residence of the convicted person in case of: 1) the identification of the fact of the impossibility of residence of the convicted person in the place of residence chosen by him in order to determine the ways of organizing a shelter; 2) receipt from the penitentiary institution (*pre-trial detention facility*) of the request-notice concerning convicts under the age of 35, including for the purpose of organizing social support by the centre of social care for families, children and youth, receiving social services in social care centres; and convicts over the age of 35 who have lost contact with family, do not have a permanent place of residence or

stay, convicted seniors and persons with disabilities of groups I and II who are in need of external care, domestic and medical health service and have no able-bodied children or other relatives who are obliged to keep them in accordance with the law or have lost contact with the family, to arrange placement in a specialized institution for the released persons, other institutions of social support (care), institutions for homeless people, organization of provision of social services; 3) the need to provide clarifications on social protection of the population.

208. On the results of the work, the authorized probation body immediately informs the penitentiary institution (*pre-trial detention facility*). When receiving a notice from a penitentiary institution (*pre-trial detention facility*) regarding persons who have applied for employment, the authorized probation body sends a notice to the employment centre on the chosen place of residence of the convicted person for the organization of the labour arrangement of the convicted person upon release. So, in 2018, penitentiary institutions sent to the probation bodies 4545 requests for information, of which about the possibility of residing - 2813, the employment of prisoners after release - 996, for the organization of measures of social patronage (social support) for sentenced persons under 35 years - 676, assistance for placement to special establishments for released convicts over the age of 35 years - 60. Authorized probation bodies carry out the relevant work regarding each of the received requests on obtaining assistance in the labour and everyday life of persons released from places of imprisonment or restraint of liberty.

209. A Memorandum of Cooperation of August 02, 2018 in the framework of the implementation of the pilot project on the implementation of the penitentiary probation in the penitentiary institutions of Poltava and Lviv regions was signed between the Ministry of Justice of Ukraine and the "FREE ZONE" Charitable Organization. The aim of the project is to develop and implement effective mechanisms of preparing for release, an algorithm for effective cooperation between penitentiary institutions and probation bodies during the preparation of a convicted person for release, effective programs (*courses*) for preparing for release taking into account gender, age of convicts, as well as new forms and methods of conducting resocialization work with convicts within the penitentiary probation, preparation of persons serving sentences in the form of deprivation of liberty for a certain period before their release, for the purpose of labour and domestic placement of such persons after release in the place of residence chosen by them. Fifty four convicts serving sentences and those released from serving sentences covered by the project activity, including 29 in Poltava and 25 in Lviv Regions.

210. Talking about social-psychological support within the prisons it should be mentioned that the tasks of social-psychological supervision of prisoners are performed by the staff of the social-educational-psychological units of the penitentiary establishments. Currently, 982 officers of the social-psychological maintenance are dealing with the prisoners. That category of staff is employed in each and every penitentiary institution; recruitment activities are permanently being conducted.

On combating corruption (*response to paragraph 99 of the Report*)

211. The CPT's recommendations concerning staff management have been carefully examined by the SCES authorities with subsequent measures being taking. Classes on the study of anti-corruption legislation are being conducted with the staff of the penitentiary institutions on a regular basis, as well as explanatory work on the prevention, detection and counteraction of corruption. The administrations of penitentiary institutions are constantly working to eliminate the informal hierarchy among inmates and prevent corruption from the personnel side.

212. Concerning the situation at the Kyiv pre-trial detention centre, according to the information provided by the Administration of the SCES two officers were dismissed from the service in 2017 following entering into non-servicing relationships with the convicted (*imprisoned*) persons or their relatives, and 4 persons in 2018.

213. In 2018, staff of the Corruption Prevention Section of the Administration of the SCES inspected 29 prisons and pre-trial detention centres in order to verify the compliance with the anti-corruption legislative requirements. Following these inspections 6 internal investigations were conducted, in particular:

- at the Zhytomyrska Colony No. 4 a real conflict of interests was revealed (*violation of Article 28 of the Law "On corruption prevention"*);
- at the Konotopskiyi correctional centre No. 130 a real conflict of interests was revealed (*violation of Article 28 of the Law "On corruption prevention"*);
- at the Menska Colony No. 91 a real conflict of interests was revealed (*violation of Article 28 of the Law "On corruption prevention"*);
- at the Raikivetska Colony No. 78 two potential conflicts of interests were revealed (*violation of Article 28 of the Law "On corruption prevention"*);
- at the Romenska Colony No. 56 a potential conflict of interests were revealed (*violation of Article 28 of the Law "On corruption prevention"*);
- at the Zamkova Colony No. 58 the inspection has detected non-submission of electronic declarations by 40 officers of that prison and non-notification of the National Agency on Corruption Prevention about these facts. This constituted a violation of Article 49 of the Law "On corruption prevention"; as a result perpetrators were brought to disciplinary accountability.

214. Specially authorized agencies in a corruption prevention sphere have been immediately notified on the facts of real conflicts of interests. At the same time, potential conflicts of interests were fixed according to the law.

215. A special e-mail (s.corruption@kvs.gov.ua) and a hotline were launched to create appropriate conditions for the notification about corruption offences within the SCES. A special box was also installed at the MoJ to notify about corruption offences.

On 24-hour shifts (*response to paragraph 100 of the Report*)

216. In certain situations, the penitentiary staff works on 24-hour shift which might be explained by the specific official tasks to be performed. On-duty custodial staff supervising prisoners works on 12-hour shift. The SCES agrees that in order to ensure effective performance of service duties a 24-hour shifts working schedule should be revised.

Regarding connection with the outside world (*response to paragraphs 101, 102 of the Report*)

217. With regard to the recommendation of the CPT to increase the minimum number of short-term visits to one hour per week and to provide an effective possibility for prisoners to make telephone calls, it should be noted that it is now included in the agenda of the ninth session of the Parliament of Ukraine for consideration at the plenary meeting of the draft Law of Ukraine "On amendments to the Law of Ukraine "On pre-trial detention" (*regarding the implementation of certain Council of Europe standards*) (reg. No. 2291 of June 07, 2015). The provisions of this draft, in particular, include amendments to articles 12, 13 of the Law of Ukraine "On pre-trial detention", namely: 1) granting to detained persons the right to have a date with relatives or other persons at least once in seven days in the absence of the decision of the investigator or the court conducting criminal proceedings on the prohibition of visits; 2) granting to detained persons the right to make telephone calls with relatives or other persons, as well as with enterprises, institutions, organizations, including in mobile networks, in the absence of a decision of the investigator or court that carry out criminal proceedings on their prohibition.

218. Concerning convicts sentenced to imprisonment and life imprisonment, according to Articles 107, 110 of the criminal executive code convicted persons serving sentences in the form of deprivation of liberty have the right to correspond with persons who are outside the colonies, to conduct telephone conversations with them, including in the networks of mobile communication and to use the global Internet network. Convicted to life imprisonment, including during his hospitalization, has the right to telephone conversations (*including in mobile networks*) under the control of the administration without limiting their number, as well as to use the global Internet network. Telephone conversations are paid from the personal funds of the convicts. Telephone conversations between convicted prisoners who are in places of deprivation of liberty are prohibited. Telephone conversations and the use of the global Internet network are paid from the personal funds of the convicts.

219. Telephone conversations are held during the day in free time and out of time for eating and continuous sleep, and, if necessary, at any time with the prior consent of the administration.

220. Regarding long-standing recommendation to amend relative legal acts so as to enable all prisoners, including those on remand, to receive visits under reasonably open conditions, his recommendation is taken into account in the provisions of the Rules of the internal order of penitentiary institutions. Thus, in accordance with Section XIV of the Rules of the Internal Order of Penitentiary Institutions, taking into account the behaviour of the convict while serving the sentence, the violations of the rules of conduct during the previous visits, as well as the recommendations of the psychologist, short-term visits can be provided both in open (*without continuous separating glass and negotiation device*) and in closed conditions (*through continuous separation glass and a conversation device*).

221. Short-term visits in closed conditions occur only in cases of high risk of the established procedure for conducting visits violation by the convicted person, and if the person who arrived on the date refused to inspect things and clothes, if there are sufficient grounds to suppose that this person intends to convey the prohibited subjects. A similar procedure for the provision of short-term visits to detainees will be established in the new wording of the Rules of the Internal Rules of the pre-trial detention facilities of the SCES, which is currently undergoing approval procedures with the concerned authorities.

Concerning disciplinary solitary confinement (*response to paragraph 103 of the Report*)

222. The information in the report of the CPT concerning the lack of changes in the legal acts regarding the reduction of the maximum possible period of disciplinary solitary confinement for up to fourteen days is not true. The Law of Ukraine "On Amendments to the CEC concerning improvement of the procedure of application to prisoners of incentives and penalties" entered into force in April 2017. This Law amended the part 1 of Article 132 of the CPC, including the reduction of the maximum term of disciplinary solitary confinement for up to 14 days.

223. As for the abolition of Article 391 of the CC it should be mentioned that the draft Law of Ukraine "On Amendments to Certain Legal Acts of Ukraine (regarding the Withdrawal of Article 391 of the Criminal Code of Ukraine)" (*reg. No. 9228 of November 19, 2018*) is currently under consideration in Parliament. In case of adoption of this Law the article 391 of the CC will be excluded.

Concerning disciplinary procedures and participation of lawyers in the system of free legal aid (*response to paragraph 104 of the Report*)

224. According to the rules of the Internal order of penitentiary institutions, the results of consideration by the Disciplinary Commission of the issue of the expediency of the application

of the penalty to the convicted person shall be made by the appropriate written decision. The convict may appeal the penalty imposed on him to the higher level enforcement body, prosecutor or court.

225. According to paragraph 7 of part one of Article 14 of the Law of Ukraine "On Free Legal Aid", the persons sentenced to imprisonment, detention in a disciplinary battalion of servicemen or restraint of liberty, have the right to all types of legal services provided for in part two of Article 13 of the Law (*protection, representation of interests in courts, other state authorities, local self-government authorities, before other persons, documentation of a procedural nature*). In accordance with the Regulations on centres for the provision of free secondary legal aid, approved by the MoJ on July 02, 2012 № 967/5, the regional centres for the provision of free legal aid in accordance with the tasks assigned to them provide the protection of the convicted persons in their appeal or by a court order.

226. According to the information provided by the Coordination Centre for Legal Aid, in the period of October 25, 2014 till November 19, 2018, acts were issued to lawyers for the provision of free secondary legal aid to persons sentenced to imprisonment, being held in a disciplinary battalion of servicemen, or restriction of freedom. The order of the MoJ No. 2260/5 July 03, 2018 amended the Regulation, according to which the local centres for the provision of free secondary legal aid, in accordance with the tasks entrusted to them, ensure the drafting of procedural documents and the representation of the interests of the convicted persons in their appeal or by a court order in courts, other state authorities, local self-government authorities, before other persons.

227. In order to create favourable conditions for ensuring that persons serving sentences in the form of deprivation or restraint of liberty are held in custody in places of detention or registered in the authorized probation bodies, the Administration of the SCES, the Centre for Probation and the Coordination Centre for Legal Assistance signed a Memorandum of Cooperation of September 17, 2018. In order to fulfil the tasks set out in the Memorandum, the Joint Action Plan was approved, which provides for the implementation of measures aimed at facilitating the access of convicted persons to free legal aid and ensuring the protection of their rights.

228. Among the measures envisaged by the mentioned Joint Action Plan is, inter alia, the ensuring the creation and organization of work of remote access points for free legal aid at the premises of penitentiary institutions, authorized probation bodies, and pre-trial detention facilities, in order to provide free legal aid to persons who serving sentences of deprivation or restraint of liberty, being held in places of pre-trial detention or registered with the competent authorities on probation (*in accordance with requirements of the legislation and taking into account the established rules of the regime in the indicated institutions*).

Concerning placement of minors in a disciplinary solitary confinement (*response to paragraph 110 of the Report*)

229. Until April 2014 for violation of the established procedure and conditions for serving juvenile offenders, one of the measures to enforce Article 145 of the CEC was to place them in a disciplinary solitary confinement for a term up to ten days.

230. On April 08, 2014, the Law of Ukraine "On Amendments to the Criminal Executive Code of Ukraine on the Adaptation of the Legal Status of Convicts to European Standards", the maximum period of imposition of juvenile convicts in a disciplinary solitary confinement was reduced to five days.

231. The recommendations of the CPT on the non-enforcement of juvenile offenders in the form of placement in a disciplinary solitary confinement will be taken into account while the preparation of the amendments to CEC.

Concerning creation of the Unified Register of the Convicts and Detainees

232. In order to unify the records of convicts and detainees, the order of the Cabinet of Ministers of Ukraine No. 608 of September 06, 2017 "Some issues of registration of convicted persons and persons taken into custody" supported the proposal of the MoJ for the introduction of record keeping of convicts and persons taken into custody through the creation of the Unified Register of convicts and detained persons, and the MoJ is designated by its holder. The purpose of creating the Unified Register of convicts and detained persons is, in particular, ensuring the registration of convicts and persons detained persons, throughout Ukraine, the prompt receipt of information about convicts and detainees.

233. To comply with the above-mentioned instruction, the MoJ issued order No. 2023/5 of June 26, 2018 "On Approval of the Procedure for the Establishment and Maintenance of the Unified Register of convicted persons and persons taken into custody", which provides for the gradual maintenance of the functioning of the Register, in particular, the information-analytical subsystem of registration of convicts and persons taken into custody – by April 01, 2019, the subsystem of electronic services for the management of cases of probation subjects - by January 01, 2020, and the subsystem of electronic medical services for sentenced and detained persons, by January 01, 2021.

234. Also, this order of the MoJ determines the procedure for the formation, maintenance and use of the information of the Unified Register of Convicts and detained persons. The following shall be entered in this Register: general data, data on documents, personal identification data, prosecution data, convictions (*in chronological order*), records of serving a sentence and release, medical records, data on probation measures applicable to sub-probation objects in accordance with the Law of Ukraine "On Probation". This Register will include both actual and archival data (*starting in 2010*).

Chapter V. Psychiatric establishments

On eliminating ill-treatment against patients (*response to paragraphs 115, 116 of the Report*)

235. Kyiv City State Administration's Health Care Department and directly the management and staff of the Kyiv Municipal Psychiatric Hospital No. 3 carefully examined the CPT's recommendations and observations. The management of the Kyiv Municipal Psychiatric Hospital No. 3 has conducted a comprehensive awareness-raising activity with the staff of the Security Police Department in Kyiv region providing security services within the high-security unit for compulsory treatment No. 1 concerning elimination and prevention of carrying special police items in a patient's wards.

236. At Poltava Psychiatric Hospital in order to prevent any signs of ill-treatment against patients the management of medical units, in a course of service and educational meetings, provides a complex awareness-raising explanations to the staff with respect to observance ethics and deontology during patients' treatment. Various communications and dialogues on that subject are also being carried out with their further recording in the register of provided lectures.

On patients' living conditions at the psychiatric hospitals visited (*response to paragraphs 118-122 of the Report*)

Poltava Psychiatric Hospital

237. Regarding reducing of overcrowding in the wards and transforming multi-occupancy wards into the smaller ones the management of the Poltava Psychiatric Hospital is planning to carry out a set of repairs in 2019 to divide the large-occupancy wards into the small-occupancy ones and upgrade them.

238. In order to improve patients' living conditions at Poltava Psychiatric Hospital beds, bedside tables, closets and bedding were partly replaced by new ones. 26 new plastic windows were installed within treatment wards. Routine maintenance and repairs of wards, sanitary facilities, engineering networks were conducted inside fourteen (14) treatment blocks as well as new water-heaters were installed. Additional walking yards for patients were set up. In October 2018 additional 0.5 million UAH were disbursed from the regional budget to purchase extra winter clothes and footwear for patients.

239. Since October 11, 2018 a new specialized ward for the inpatient treatment of detainees and remand prisoners has been operating within the intensive care ward.

240. At the same time, a scope of allocations from the development fund dedicated for 2018 does not make it possible to fully modernize and improve patients' living conditions at the hospital, including to meet the state building standard of not less than 7 m² of living space per 1 bed at the wards.

241. There also must be mentioned that the medical premises of the Poltava Psychiatric Hospital have a status of local architectural monuments, thus significant reconstructions are impossible.

242. More than 4 million UAH were allocated from the regional budget for patients' nutrition in 2018, which is 1.3 million UAH more than in 2017. Due to increased budgeting the quality of patients' nutrition was improved as well as the diversity of food was raised. The first meals include various soups, borscht and garnishes include various types of cereals and potato. Patients eat dishes with meat, fish, fresh vegetables and dairy products. Everyday patients drink tea, coffee, juices and have fresh fruits. The quality of food for patients' nutrition is permanently controlled by the hospital staff.

243. Nevertheless, funding of patients' nutrition is still on a medium level and does not allow to fully implement the standards of nutrition per one patient per day regulated by the MoH Order No. 931 of 29.10.2013 "On improving medical nutrition and deontology system in Ukraine".

244. Each and every patient of the hospital has an access to outdoor exercises. Length and quantity of outdoor exercises are defined individually, taking into consideration patients' will, his/her physical abilities and psychiatric state. Every treatment block has its own walking yard. Daily, following the internal schedule of the ward, patients have walks in the yards and breathe fresh air. Quantity of such walks is not less than 3-4 per day with general length of 2 hours minimum, but the number might be increased if the weather and wards' workload are appropriate. Furthermore, those patients who demonstrate sustainable recovery (*except those under compulsory medical treatment*) can freely walk throughout the territory of the hospital accompanied by the relatives or the staff. Patients' walks are recorded in the relevant personal profile.

245. A football field is set up within the compulsory medical treatment ward. Football tournaments are playing as requested by the patients. Hospital patients have also an opportunity to play volleyball and ping-pong, grow plants and do outdoor physical exercises. Another football pitch is currently under construction which will be accessible for all patients.

Kyiv Municipal Psychiatric Hospital No. 3

246. According to the Resolution of the Kyiv Municipal Council No. 1042/4049 of December 21, 2017 "On Kyiv Economic and Social Development for 2018-2020" it is planned to reconstruct the premises of the main treatment corpus of the Kyiv Municipal Psychiatric Hospital No. 3. It was also taken into account that the patients should be accommodated in the wards with the living space of 7 m² per one individual.

247. Individual bedside tables and closets for personal items of patients were purchased as well as bedding was partly replaced with a new one.

248. A system of video-surveillance was installed within the wards Nos. 2, 3 in July 2018. In order to create more comfortable conditions of judicial hearings relevant measures were taken to organize these hearings via videoconference.

249. General ward patients have daily access to outdoor exercises in the newly decorated walking yard with benches, tables and sport items being installed.

On staffing levels during weekdays and at night shifts within the Poltava Psychiatric Hospital *(response to paragraph 125 of the Report)*

250. Staffing levels of medical personnel at the Poltava Psychiatric Hospital is regulated by the staffing table. Medical personnel's regime of work is determined by the collective labour agreement and the internal hospital's labour rules.

On overmedication of patients at Poltava Psychiatric Hospital *(response to paragraph 126 of the Report)*

251. At Poltava Psychiatric Hospital a medication pharmacotherapy is provided in accordance with the local protocols on nosological forms' treatment. At the Hospital, in a course of treatment of psychomotor agitation of patients, both medicines and means of physical restraint shall be prescribed only by the psychiatrist and supervised by him/her with accompaniment of medical staff.

On psycho-social rehabilitation and patients' treatment *(response to paragraphs 128-129 of the Report)*

252. At Poltava Psychiatric Hospital a bio-psycho-social model of psychosocial rehabilitation of patients is implementing based on principles of synergy, correspondence, consciousness, voluntariness and humanity. While patient is hospitalized, a special individual program of medical, social and psychological rehabilitation shall be developed. After primary diagnostics by a psychiatrist, an individual plan of treatment and psychosocial rehabilitation shall be immediately drafted with the patient himself/herself being involved. Patients are properly informed about changes of their psychiatric condition and the progress of treatment. Individual plans of psychosocial rehabilitation shall be modified according to the state of patients.

253. Following administrative resolutions and decisions by the Poltava Regional State Administration's Health Care Department and Poltava Psychiatric Hospital management with the view to improve psycho-diagnostics, psycho-correctional, psycho-educational activities and a whole process of psychosocial rehabilitation the Mental Health Centre was established within the Poltava Psychiatric Hospital. The Mental Health Centre consists of a multidisciplinary group composed by a psychiatrist, psychotherapist, psychologist, social worker, nurse and child psychiatrist.

254. Patients are accommodated into the Mental Health Centre following a diagnostics examination by the parapsychologist who determines a rehabilitative potential in every single case. To perform rehabilitative process the Mental Health Centre is equipped with modern separate premises of 30 m² where the following measures of psychosocial rehabilitation could be performed: 1) group sessions - art-therapy, music-therapy, relax-therapy, ergo-therapy, psycho-correctional support; 2) individual consulting.

255. Hospital patients after being released have an opportunity to obtain a further supervision of the Mental Health Centre specialist. Mental Health Centre has also introduced

an individualized consulting of the residents of Poltava region who are not the hospital's patients following their personal request.

256. Multidisciplinary approach of the process of psychosocial rehabilitation is introduced at the hospital. In particular: 1) psycho-correctional interviews are regularly provided to the patients directed on formation of an adequate behaviour of the patient, his/her communicating skills, responsibility for his/her behaviour, social competencies and ability to react to difficulties; 2) patients are provided with individual sessions to educate them how to fix their personal stuff, be oriented in time and environment, use a phone, get and count money, take care of himself/herself; 3) family psycho-therapy is actively used with mutual conversations with patients' relatives where the aim of treatment is explained; 4) various activities are organized, mainly cinema-therapy, book-therapy, sport games (tennis, football, volleyball, chess, etc.); 5) a compulsory medical treatment ward is equipped with computers and Internet, patients use their personal radio, music-players, gadgets; 6) labour-therapy is also used both inside wards and in specialized ward of social-labour rehabilitation; 7) ex officio lawyers provide free legal aid services, patients are explained about their rights; 8) patients' social needs are revealing and fixing; re-issuance of lost documents, re-obtaining of social benefits, inc. pensions, establishing family connections, obtaining degree of disability; 9) patient enjoy opportunity to purchase and use personal items; 10) in order to guarantee religious freedom patients perform religious ceremonies with the priest.

257. With the purpose to improve psychosocial rehabilitation of the patients subjected to compulsory medical treatment within the Kyiv Municipal Psychiatric Hospital No. 3 the hospital's staff has developed and introduced a special individual program of medical, social and psychological rehabilitation. Psychosocial rehabilitation measures at the hospital are provided by the multidisciplinary team composed of psychiatrist, psycho-therapist, psychologist, nurse and social worker.

On the means of restraint *(response to paragraphs 133-138 of the Report)*

258. At Poltava Psychiatric Hospital if a physical restriction is applied, relevant measures shall be registered in accordance with the MoH Order No. 240 of March 24, 2016 "On approval rules for application of physical restriction and (or) isolation during provision psychiatric aid to persons with mental health disorders, and forms of primary registry documentation". Each such case shall be registered in a detailed standard form. Protocol of application shall be opened for every patient by the form No. 066-2/o as well as a record shall be put into the registry of application of physical restraint by the form No. 066-3/o. Isolation is not applied at the hospital.

259. At Kyiv Municipal Psychiatric Hospital No. 3 application of fixation and monitoring of physical restraint during provision psychiatric aid to persons with mental health disorders are also applied according to the MoH Order No. 240 of March 24, 2016 "On approval rules for application of physical restriction and (or) isolation during provision psychiatric aid to persons with mental health disorders, and forms of primary registry documentation". In case when application of physical restraint is needed, the fact and justification for such an application shall be mandatory recorded by the psychiatrist in the personal medical profile of the patient and accompanied by the relevant protocol (form No. 066-2/o). Every further application of physical restraint shall be recorded in the Registry of application of physical restraint (form No. 066-3/o).

On hospitalized patients' legal safeguards

260. With regard to legal regulation of recognition a person as legally incapable and provision of compulsory psychiatric aid for him/her there should be mentioned that on

October 3, 2017 the Parliament adopted the Law 2147 “On amending Commercial Procedure Code, Civil Procedure Code, Code of Administrative Justice and other legal acts” which inter alia provided a brand new edition of the Civil Procedure Code (*CivilPC*).

261. According to Articles 299, 300 of the CivilPC the court shall consider cases on recognition a person as legally incapable with participation of applicant, a person whose case (*on recognition as legally incapable*) is under consideration and representative of guardianship agency. Depending on health state of a person whose case on recognition as legally incapable is under consideration, his/her participation in judicial hearing might be performed via videoconference from the psychiatric or another medical institution where the person concerned is held which shall be indicated in the court decision. The court’s decision on recognition a person as legally incapable is valid for a period determined by a court, but its validity cannot exceed 2 years.

262. Abolishing of a court decision on recognition a person as legally incapable and restoration his/her civil legal capacity in a case of recovery or significant improvement his/her psychiatric state shall be conducted according to the court decision following the relevant request of a guardian, relatives, guardianship agency or legally incapable person himself/herself.

263. Besides, in accordance with Article 339 (2) of the CivilPC a request by the person who is subject to compulsory outpatient psychiatric aid due to court decision or by his/her legal counsel concerning termination of such aid shall be submitted to the court whose jurisdiction covers the place of residence of the person; and concerning termination of hospitalization in psychiatric hospital – to the court whose jurisdiction covers a place of location of the psychiatric hospital.

264. Application of the person or his/her legal counsel about termination of outpatient psychiatric aid or compulsory hospitalization into the psychiatric institution shall include the circumstances and evidences that constitute a ground for such request (*Article 340 (3) of the CivilPC*). Article 342 (3) of the CivilPC provides that the decision on satisfaction of application of the person or his/her legal counsel is a ground for termination of provision of such compulsory psychiatric aid.

Access to free legal aid

265. According to Article 14 (1) of the Law “On Free Legal Aid” persons who are subjected to judicial consideration concerning their compulsory psychiatric treatment have a right to legal services such as judicial representation, representation in other state authorities, preparation of procedural documents for all period of judicial trial. According to statistic data, from July 1, 2015 to November 19, 2018 persons subjected to judicial consideration concerning their compulsory psychiatric treatment submitted 1776 requests for the free secondary legal aid services.

On the length of treatment of patients of forensic profile (*response to paragraph 144 of the Report*)

266. Mental state of patient, his/her stability, a type of course of a disease and re-offending risk assessment shall be mandatory taken into account while considering an issue of the length of treatment of forensic patients. After patients’ examination is conducted a conclusion of medical commission shall be filed to a court to decide on continuation, changing or termination of application of compulsory medical treatment.

On contacts with the outside world (*response to paragraph 152 of the Report*)

267. At Poltava Psychiatric Hospital patients subjected according to the court decision to compulsory high-security medical treatment have a right to use mobile phones without photo/video-cameras and Internet access as prescribed by the paragraph 30 of the Ministry of HealthCare Order No. 992 of 31.08.2017 "On approval Rules for application compulsory medical treatment within the psychiatric hospitals". Mobile phones of such patients shall be kept in special place under supervision by the medical staff and shall be given to the patient after his/her written request containing the number of caller to be phoned and approximate duration of a conversation. Patients have a right to make phone calls every day pursuant the internal ward schedule; patients' phone calls are confidential. Mobile phones and conversations of such patients shall be recorded in the "Registry of mobile phones and phone numbers used by the patients and records of their phone conversations".

268. All the other patients at the hospital have a free access to their own mobile phones and are not limited in communication; phone conversations are confidential. Following a patient request, in order to keep it in safety, his/her mobile phone might be put into safe of a nurse. If a patient does not have its own mobile phone, after request, he/she may be given a phone of the medical staff.

269. At Kyiv Municipal Psychiatric Hospital No. 3 all the patients have a guaranteed access to the phone.

On prosecutorial supervision over law observance and patients' rights compliance

270. In accordance with the requirements of Article 26 of the Law "On public prosecution", Article 31 of the Law "On psychiatric aid" public prosecutor's offices perform supervision over law observance during psychiatric aid provision through the mandate of supervision law observance during execution criminal sanctions imposed by a court and during application of other compulsory measures connected with deprivation of freedom. To implement the mandate public prosecutors systematically monitor and inspect psychiatric hospitals and forensic wards with regard to observance the law and rights of persons subjected to compulsory medical treatment or compulsory hospitalization according to the court decision.

271. The General Prosecutor's Office has reported that in a course of 10 months of 2018 more than 180 documents of prosecutorial reaction were filled. Following their consideration, 205 public officials and medical staff have been brought to disciplinary accountability with further measures taken to avoid similar violations of the law in the future.

Chapter VI. Social care establishments

On residents' treatment (*response to paragraphs 155, 164-166 of the Report*)

272. Regarding medical treatment of residents at the Sviatosynskyi Psycho neurological boarding institution (*Sviatoshynskyi Internat*) a working meeting was held between the Social Policy Department and the Health Care Department of Kyiv City State Administration to resolve problematic issues concerning medical treatment of residents who are accommodated within the social care establishments in Kyiv with the orientation on the CPT recommendations. The result of the meeting was the Health Care Department's order No. 453 of 08.05.2018 issued for the management of the medical institutions of Kyiv with the command to enhance control of residents' appropriate treatment, including to provide hospitalization when needed. Further, in 2018, within the framework of the healthcare reform run by the Ministry of Health, residents of Sviatoshynskyi Internat have concluded 682 agreements (declarations) with the family doctors of the Kyiv local healthcare institutions in order to obtain primary medical assistance.

273. According to the MoH Order No. 933 of 16.05.2018 “On amending the List of health care institutions” social care establishments which provide medical assistance to elderly persons or ones with disabilities became eligible to obtain the medical practice license. That norm allows to apply within the social care establishments necessary legal acts that regulate the treatment at the medical institutions, particularly, the Rules for Application of Physical Restriction and (or) Isolation during Provision Psychiatric Aid to Persons with Mental Health Disorders, and Forms of Primary Registry Documentation approved by the MoH Order No. 240 of 24.03.2016.

274. To provide treatment to residents, medical staff of the Sviatoshynskiy Internat is obtaining licenses in order to carry out medical practice. The first steps were completed, in particular, the certificate on correspondence of medical equipment with the exploitation standards was obtained; medical staff is undergoing trainings; staff rates were designed.

275. Also, following the CPT’s request, the text of the Concept of Mental Health Care Development in Ukraine up to 2030 is provided in the annex No. 11.

On the institutional development and reformation the system of services inside social care establishments *(response to paragraph 156 of the Report)*

276. Nowadays, Kyiv local administration is developing the system of social services for persons with mental health disorders both within the institutionalized social care and in the communities. On July 2, 2018 a Memorandum on Cooperation was concluded between the Kyiv City Administration’s Social Policy Department and international fund “Human Rights in Mental Health – Federation Global Initiative on Psychiatry” *(the Netherlands)* launching a pilot project on deinstitutionalization on the basis of Sviatoshynskiy Internat. The primary stage of reformation of that Internat for 2019 includes the opening of two social adaptation wards and a maintenance ward *(local budget has disbursed the funding)*.

277. In 2018 the establishing of two maintenance houses within the social care establishments has already begun, specifically: a maintenance house for persons with dementia within the Kyiv boarding house for labour veterans; and a maintenance house for persons with soft mental retardation and/or psychiatric disorders within the Sviatoshynskiy boarding house for children.

278. Moreover, it is planned to double the funding for procurement of social services of the NGOs inter alia for persons with mental health disorders in 2019.

279. To methodically follow the progress in that realm of social work the Expert Council on Social Services Development for Persons with Mental Health Disorders and Elderly People was established under the auspices of the Social Policy Department.

280. The reformation of social services system envisages that social services shall be brought closer to the recipients and based on the principles of individual approach, respect, human rights observance and targeting. Future modern system of social services shall meet the needs of citizens and be oriented on improvement of the quality of their life. Social services reformation goes simultaneously with the institutionalized care system reform, the latter intends to transform the social care establishments through their transformation into the day-care residence or total abolishing.

281. Draft law “On social services” *(reg. No. 4607 of May 06, 2016)* is submitted to the Parliament *(adopted in the first hearing)*. The draft seeks to ensure: targeting and accessibility of services; transparency and competitiveness; expanding the branch of social services providers through involvement of the NGOs; transformation of local self-government in the realm of social services provision, etc.

282. Presidential Decree No. 553/2016 of December 13, 2016 “On measures directed on observance of the rights of persons with disabilities”, Middle-term plan of Government’s

priority actions up to 2020, approved by the Governmental Decree No. 275 of April 03, 2017, determined a goal of transformation of psycho neurological boarding homes taking into consideration the international experience and with the view to develop social services at the place of recipients' residence. To implement these strategic documents the Ministry of Social Policy is drafting and introducing state standards of social services, is developing innovative social services alternative to institutionalized care (*day-care, maintenance*).

On appropriate treatment with the residents (*response to paragraphs 157 of the Report*)

283. In order to prevent ill-treatment of the residents at the Sviatoshynskiy Internat a new practice was launched according to which the management of medical units and senior nurses perform regular working meetings with the staff with regard to observance of professional ethics and deontology.

284. Besides, with a view to increase the awareness of the staff of Sviatoshynskiy Internat and other social care establishments in Kyiv about international standards for provision of services to persons with mental health disorders a series of trainings have been launched run by the Social Policy Department supported by the international fund "Human Rights in Mental Health – Federation Global Initiative on Psychiatry".

285. On April 12, 2018 specialists of the social care establishments participated in the training "Use of methodological instruments of the World Health Organization in order to improve the quality of treatment and human rights respect of persons with mental health disorders in the context of mental health care in Ukraine". On October 10, 2018 a workshop was organized for the Sviatoshynskiy Internat staff concerning the experience of organization of help and maintenance for persons with mental health disorders in the Netherlands, Great Britain, Sweden and Lithuania. Another topic discussed was technologies of work with such category of patients with participation of international experts.

On improving living conditions of residents (*response to paragraph 158 of the Report*)

286. In order to improve living conditions of bed-ridden residents at the Sviatoshynskiy Internat in 2018 the establishment is provided with necessary medical items, including quality mattresses and pillows to prevent bed sores. Funds were also disbursed to purchase personal hygiene items like diapers, anti-bacterial sponges, etc.

287. Closets to keep personal items were purchased for two wards. Further procurement of furniture to better decorate personal space of residents is planned for 2019.

288. The renovation of ward No. 2 is completed. Number of residents per one room is constantly reducing up to two persons. Living rooms and space are decorated. Residents of the Sviatoshynskiy Internat are provided with clothes and footwear for every season of the year.

On ensuring patients' more frequent access to the shower (*response to paragraph 159 of the Report*)

289. Hygienic and sanitary conditions are constantly improving. Each ward of the Internat has 2 showers and one bathroom with hot water supply. Residents are able to use a shower and bathroom without any limits.

On access to outdoor exercises (*response to paragraph 160 of the Report*)

290. Residents of the Sviatoshynskiy Internat enjoy unrestricted and unlimited access to outdoor exercises and are fully provided with clothes and footwear. Walking yard within the Ward No. 2 was renovated as well as two new terraces were opened giving residents an

opportunity to have outdoor exercises and enjoy breathing fresh air. The fact of its renovation is also reflected in the report by the NPM following its monitoring visit to the Internat.

On psycho-social and rehabilitative types of residents' activity (*response to paragraph 167 of the Report*)

291. Rehabilitative services for the residents of the Sviatoshynskiy Internat are developing and improving. Nowadays, labour and social rehabilitation of residents is conducted in three workshops (*sewing workshop and ones for art sessions*), as well as in laundry, kitchen and greenhouse where residents are able to practice some creativity and modify skills of self-care. Every day, 80 residents may train their skills in the workshops.

292. On December 2018 the Social Policy Department organized a series of trainings for the Internat staff performed by the Medical-Social Rehabilitation Centre in order to improve the quality of rehabilitative services providing to the residents.

On incidents of death inside the Sviatoshynskiy Internat (*response to paragraph 168 of the Report*)

293. According to the data provided by the General Prosecutor's Office from July 2017 to date 13 cases of residents' deaths were recorded with the relevant information and data being put into the Unified Register of Pre-Trial Investigations. Police investigators conducted the following pre-trial investigations:

- No. 12017100080003883 of May 07, 2017 of the death of resident K., born in 1954. According to the expert's conclusion the death was caused by the chronic perforated ulcer. On May 18, 2017 following the consequences of a pre-trial investigation the criminal proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080005786 of July 01, 2017 of the death of resident Sh., born in 1926. According to the expert's conclusion the death was caused by the chronic coronary heart disease. On 21.08.2017 following the consequences of a pre-trial investigation the criminal proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080009556 of October 28, 2017 of the death of resident K., born in 1976. According to the expert's conclusion the death was caused by the chronic coronary heart disease. On November 08, 2017 following the consequences of a pre-trial investigation the criminal proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080007700 of September 03, 2017 of the death of resident S., born in 1937. According to the expert's conclusion the death was caused by the suffocation after choking on a food. On September 13, 2017 the proceeding was closed under p.2, Article 284 (2) of the CPC (*absence of elements of a criminal offence*);

- No. 12017100080009780 of November 05, 2017 of the death of resident B., born in 1957. According to the expert's conclusion the death was caused by the chronic coronary heart disease. On November 08, 2017 following the consequences of a pre-trial investigation the criminal proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080010775 of December 07, 2017 of the death of resident Ya., born in 1936. According to the expert's conclusion the death was caused by a malignancy of inner female genital mutilation. On 15.12.2017 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080010895 of December 12, 2017 of the death of resident G., born in 1936. According to the expert's conclusion the death was caused by a malignancy of liver and

fulminant liver failure. On December 15, 2017 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080011082 of December 18, 2017 of the death of resident Kh., born in 1935. According to the expert's conclusion the death was caused by chronic coronary heart disease. On December 28, 2017 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080011302 of December 24, 2017 of the death of resident T., born in 1967. According to the expert's conclusion the death was caused by acute myocardial infarction. On December 27, 2017 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12017100080011303 of December 24, 2017 of the death of resident K., born in 1967. According to the expert's conclusion the death was caused by chronic coronary heart disease. On December 27, 2017 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12018100080000008 of January 02, 2018 of the death of resident Z., born in 1962. According to the expert's conclusion the death was caused by chronic coronary heart disease. On January 16, 2018 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12018100080004687 of June 09, 2018 of the death of resident B., born in 1949. According to the expert's conclusion the death was caused by chronic coronary heart disease. On June 22, 2018 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*);

- No. 12018100080005805 of July 19, 2018 of the death of resident O. According to the expert's conclusion the death was caused by chronic coronary heart disease. On July 27, 2018 the proceeding was closed under p.1, Article 284 (1) of the CPC (*absence of occurrence of a criminal offence*).

294. As regards providing more detailed information on the scope of investigative measures performed and providing copies of criminal proceeding materials there must be mentioned that pursuant to Article 222 of the CPC such a data are confidential and shall not be disclosed.

295. On a more positive side, in 2018 the Sviatoshynskyi Internat was provided with quality mattresses and pillows to prevent bed sores.

296. With the purpose to increase the quality of care of bed-ridden residents the staff of all Kyiv social care establishments participated in the training "Care, including palliative care, of persons who are seriously ill and fail to perform self-care"; in a course of the training the participants became acquainted with contemporary standards and practices of provision of such service.

On possible use of mechanical restraint and/or seclusion vis-à-vis residents of the Sviatoshynskyi Internat (*response to paragraph 169 of the Report*)

297. Following the initiative of the MoSP, according to the MoH Order No. 933 of May 16, 2018 "On amending the List of health care institutions" social care establishments which provide medical assistance to elderly persons or ones with disabilities were inserted to the List of Health Care Institutions.

298. That norm allows to apply within the social care establishments necessary legal acts that regulate the treatment at the medical institutions, particularly, the Rules for Application of Physical Restriction and (or) Isolation during Provision Psychiatric Aid to Persons with Mental Health Disorders, and Forms of Primary Registry Documentation approved by the MoH Order No. 240 of March 24, 2016.

On residents' accommodation into the social care establishment and the procedure of release (response to paragraph 170 of the Report)

299. A scope of a civil legal capacity of an individual is regulated according to the Civil Code of Ukraine and might be limited only due to circumstances and in a procedure, determined by the law. So, Articles 36, 39 of the Civil Code envisage a possibility to limit the civil legal capacity of an individual or absolute deprivation of his/her civil legal capacity. At the same time, Article 42 of the Civil Code provides for restoration of the legal capacity of an individual who were previously recognized as legally incapable. The procedure of restoration of the civil legal capacity of an individual who were previously recognized as legally incapable is regulated by the CivilPC.

300. According to Article 300 (4) of the Civil Code the cancellation of the court's decision concerning recognition of individual who was recognized as legally incapable when his/her recovery or a significant improving of his/her mental state occurs shall be made through the court's decision following the relevant forensic psychiatric expert conclusion under an application of a guardian, relative, guardianship agency or an individual himself/herself.

301. According to the Article 23 of the Law "On Psychiatric Aid" a written personal application of an individual with mental health disorders and the conclusion of medical commission (*with participation of psychiatrist*) shall be a ground to accommodate an adult with mental health disorders into the social care establishment. The management of the social care establishment taking care of persons with mental health disorders or another authorized body is obliged to conduct medical examinations of such persons at least once per year with involvement of a medical commission in order to define the necessity of further accommodation of the persons concerned or revise the decision on recognition a person as legally incapable.

302. Pursuant to Article 24 of the Law a preconditions to release a person with mental health disorders from the social care establishment are a written personal application of the person supported by the medical commission's conclusion on the person's ability to self-care; a written application of the legal counsel of the person recognized as legally incapable to take care of the latter; court's decision on illegal accommodation of the person into the social care establishment taking care of persons with mental health disorders or into the special educational institution.

303. Information for 2016-2017 concerning judicial consideration of the cases on recognition an individual as legally incapable is provided in annex 10.

On guardianship over residents of social care establishments and available alternative decisions on the guardianship over them (response to paragraph 171 of the Report)

304. According to Article 60 of the Civil Code a court shall make a decision on a guardianship over an individual if he/she was recognized as legally incapable and appoint a guardian after relevant application from the guardianship agency are submitted. Articles 63 and 64 of the Civil Code establish requirements and restrictions concerning appointment of a guardian, particularly only a person with a full civil legal capability shall be appointed as a guardian. Guardianship over an individual who is held at the social care establishment and to whom a guardian wasn't appointed shall be provided by the establishment itself as regulated by Article 66 of the Civil Code. The mandate of a social care establishment as a guardianship provider is regulated by the Common Regulation on Psycho-Neurological Boarding Home approved by the Governmental Decree No. 957 of 14.12.2016. According to paragraph 10 of the mentioned Common Regulation before a guardian is appointed a guardianship over legally incapable persons shall be performed by the social care establishment, particularly, through taking appropriate measures before a civil legal capacity is restored or limited of residents.

Social care establishment, when needed, shall take measures to fix issues on legal incapability or limitation of a civil legal capability of the residents who need a guardianship and appoint a guardian to the persons concerned.

305. Within the set of measures concerning guardianship provision, the social care establishment is representing interests of legally incapable residents at the state authorities, banks, etc. Mechanisms of use of funds of legally incapable residents who are under a guardianship of social care establishments in a course of purchasing goods, items or services to residents is regulated by the relevant Procedure approved by the MoSP Order of August 17, 2018 No. 1173. According to the latter in a case of appointment of a guardian for the legally incapable residents the use of funds shall be done by their guardians.

On the residents' contacts with the outside world *(response to paragraph 172 of the Report)*

306. Public phones which might be used by the residents of the Sviatoshynskyi Internat are situated within the medical units of the 1st and 2nd corps. Mobile phones are kept by the residents themselves and charged at the staff rooms. Following the guardian request mobile phones of certain residents could be kept by the staff of the ward.

On complaint mechanisms *(response to paragraph 173 of the Report)*

307. Information on residents' rights is illustrated on the stands of the Internat. Staff was provided with the instructions regarding the importance and necessity to provide residents with the comprehensive support in the context of protection of their rights, including as regards to submission of formal complaints. Every ward is equipped with postal boxes with the addresses of the social care agencies, police, etc.

308. According to the information from the Office of the Ombudsperson, special reports of the Ombudsperson concerning the NPM activity in 2013-2017 repeatedly reported about the implementation of social care establishments residents' rights to submission of a complaint to the state authorities. In a course of the monitoring visits and through recommendations made after visits it was recommended to equip stands with the information on the rights of various categories of people (*children, elderly persons, persons with disabilities, persons with mental health disorders, etc.*). A specific attention was paid on the necessity to present accessible information for various categories of people about how and to whom they should apply if their rights have been violated.

309. Ombudsman Office has submitted a letter to the MoSP concerning realization of residents' right to file individual complaint or inquiries through proper presentation of relevant data on the establishments' informational stands.

Other information on reformation of the social services realm

310. The MoSP adopted Order No. 1834 of December 07, 2018 "On amending the state Day-Care Standard" to improve the provision of social services to persons with mental health disorders. Furthermore, a state standard of social rehabilitation of persons with mental and intellectual disorders is developed.

311. In order to reduce institutionalized care of persons with disabilities, including ones with mental disorders, educate and modify social skills and social competence of such persons as well as to enhance family ties the MoSP approved the Common Regulations on the Maintenance Ward for Elderly People and Persons with Disabilities, the Ward of 5-Day Inpatient Care and the Ward of Transit Stay.

312. In order to formulate unified mechanisms and approve standardized procedures of social services provision within the social care establishments as well as create new conditions of social services provision to persons with disabilities and/or mental health

disorders the MoSP drafted a decree “On Social Services Provision to Persons with Disabilities and Mental Health Disorders” which is expected to be submitted to the Government for consideration in the nearest time.

313. Further, with a view to ensure social justice for all recipients of social services the Government has decided to change the procedure of social services provision by introducing a differentiated payment scheme depending on the scope and complexity of services provided which is regulated by the Governmental Decree No. 629 of August 22, 2018 “On amending the Procedure of Social Services Provision by Introducing a Differentiated Payment Scheme”.

314. To provide the social care establishments with a methodological assistance the MoSP approved Methodological Recommendations on Organization of Cultural Activity for Persons with Disabilities, Children with Disabilities within the Social Care Establishments (*Order No. 2044 of December 22, 2017*) and Methodological Recommendations on Organization of Labour Therapy for Persons with Disabilities, Children with Disabilities (*Order No. 1778 of November 26, 2018*).