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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 9 to 16 September 2014

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

Strasbourg, 28 July 2015

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.



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26.06.15

№ 12.2-41/173

На № _____

Dear Mr. Gnatovskyy,

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

First of all, allow me to extend my sincere congratulations, both personally and on behalf of the Ministry of Justice on Your assumption of the presidency of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The goals of human rights protection are important to every citizen, and I wish you every success in turning them into reality.

Ministry of Justice attaches great importance to its cooperation with the CPT.

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

Furthermore, to inform on measures taken by Ukraine in connection with the comments and recommendations of the CPT, Ministry of Justice sends information on the results of carried out investigations of undertaking and planned preventive measures in connection with the situation in Berdychiv Correctional Colony No. 70 (Annexes 2).

Ministry of Justice will keep You informed on progress and measures taken by Ukraine in connection with the comments and recommendations of the CPT.

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

Annex: mentioned on 19 pages.

Sincerely yours

Deputy Minister

Anton YANCHUK

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

Mykola Gnatovskyy

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INFORMATION
on the work done pursuant to recommendations of the European
Committee for the Prevention of Torture and Inhuman or Degrading
Treatment or Punishment (hereinafter - CPT) on results of the CPT
delegation visit to Ukraine from 9 to 16 September 2014

A. The treatment of persons detained by law enforcement agencies in the context of "anti-terrorist" operation

In the period from 1 June 2014 to 12 June 2015 in 12 pre-trial establishments and penitentiary establishments with functions of pre-trial establishments were 263 persons taken into custody who are detained in connection with executing the anti-terrorist operation in eastern Ukraine.

Mentioned persons systematically visited by representatives of the International Committee of the Red Cross, OSCE and UNO. Claims from mentioned organizations on their improper detention conditions have not been reported.

Regarding fact-findings of excessive use of force by the Security Service of Ukraine in the discharge of their duties during the events on the Maidan by the Prosecutor General's Office of Ukraine to the Head of the Security Service of Ukraine sent a letter with demand to take measures to prevent further facts of violations of human rights during the arrest, pre-trial investigation and detention, and also implement (including through training) CPT recommendations in work organization of the Division on ensuring pre-trial investigation of the Central Office of the Security Service of Ukraine.

Based on the statements and reports on application of violence to persons detained in connection with the commission of crimes during the anti-terrorist operation in eastern Ukraine by military prosecutor's initiated 33 criminal proceedings by parts 1 – 3 article 365¹ of the Criminal Code of Ukraine (hereinafter - CC).

¹ **Article 365** Excess of authority or official powers by law enforcement official

1. Excess of authority or official powers, that is a willful commission of acts, by law enforcement official, which patently exceed the rights and powers vested in him/her, where it caused any substantial damage to the legally protected rights and interest of individual citizens, state or public interests, interests of legal entities, - shall be punishable by the restraint of liberty for a term up to five years, or imprisonment for a term of two to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. Actions as provided for by paragraph 1 of this Article, accompanied with violence or threats of violence, use of weapons or special tools, or actions that caused pain or were derogatory to the victim's personal dignity, however, with no elements of torture, - shall be punishable by the restraint of liberty for a term of three to eight years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

3. Actions as provided for by paragraph 1 or 2 of this Article, if they caused any grave consequences, -shall be punishable by imprisonment for a term of seven to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

As a result of the prejudicial inquiry, 18 criminal proceedings were closed on the basis of paragraph 2 Part 1, Art. 284² of the Criminal Procedural Code of Ukraine (hereinafter - CPC). Currently, carried out prejudicial inquiry in 15 criminal proceedings of the specified category.

It should be noted that to officials of the Security Service of Ukraine, participating in anti-terrorist operations, emphasized on the inadmissibility of the use of excessive force to persons during their detention and ill-treatment with detainees, as well as the need to ensure strict observance of current legislation in the performance of their official duties.

At the same time note that paragraph 3.11 of the Instruction on the work of the detention centers of the internal affairs agencies of Ukraine, approved by the Ministry of Internal Affairs order from 20.01.2005 № 60 restricted registered in the Ministry of Justice of Ukraine on 25, February 2005 № 268/10548, to detainees and individuals for whom chosen remand in custody, before being brought to temporary detention facility (hereinafter – TDF) held initial medical examination in health care facilities of system of the Ministry of Health of Ukraine of state or municipal ownership to identify persons who have inflicted bodily injuries or who are a threat to the epidemic environment and require emergency medical care. Before putting in cameras, such persons interviewed about their health by paramedic, and in his absence – by duty officer. Then they are passes sanitization. In case of injuries detection they immediately, but no later than the day, notified prosecution agencies in writing form.

In the case of a person complaint to poor health or in the presence of obvious signs of disease or injury paramedic (duty officer) shall immediately invite the doctor from health care facility of public health authorities to inspect the delivered and obtaining the opinion on the possibility of such a person staying in the TDF.

According to paragraph 3.12 of mentioned Instruction, if on the opinion of the health care worker the delivered person cannot be situated in the TDF, sent her/him for treatment. In such cases, detained suspects of committing a crime, as well as those who are detained and convicted, placed to health care facility of public health authorities. People placed for treatment in such institutions, are protected in accordance with the Instruction on the organization of escorting of detainees and persons held in custody in the internal affairs bodies of Ukraine, approved by order of the Ministry of Interior № 60 restricted - 2005.

About sending of mentioned persons to health care facilities TDF administration informs the person or body, where in charge the criminal proceedings.

² **Article 284.** Closing criminal proceedings and proceedings on legal entity. By Part 1 of mentioned article established - criminal proceedings shall be closed if absence of elements of criminal offence in the act concerned has been established.

B. Investigation of allegations of ill-treatment by law enforcement officials during the events on Maidan

As a result of massive violations of constitutional rights of citizens, unlawful use of force, including firearms, in period from 30.11.2013 till 20.02.2014 killing 77 people, injured more than 1 thousand citizens, including gunshot wounds received 185 persons.

The facts prevented from carrying gatherings, meetings on 30.11.2013 at Maidan Nezalezhnosti in Kiev investigated criminal proceedings №42013110000001053 from 30.11.2013. On results of investigation 15 persons reported suspected of committing crimes under Art. 340³, Parts 2, 3 Art. 365 of the CC of Ukraine.

In February 2015 the preliminary investigation materials suspected former head of KCSA P.O.P. isolated in separate proceedings and with the indictment sent to the Shevchenkivskyi district court of Kyiv. The trial continues.

Currently, four former heads of the regiment special police "Berkut" of the Main Department of Internal Affairs of Ukraine in Kiev reported on the completion of the preliminary investigation and provided access to the criminal proceedings materials, the parties continued familiarization with materials.

On the facts of committing on 18.02.2014 murder of 3 and injury of 69 persons at the Mariinsky park in Kiev 21.04.2015 detained former officials of special police battalion "Berkut" of the Main Department of Internal Affairs of Ukraine in Kharkiv region, namely former commander of the battalion, commander of tactic troop and policeman of the same troop on suspicion of committing criminal offenses previewed under part 4 Art. 41⁴, Part 3 art. 365 and part 4 art. 41, part 2 art. 15⁵, paragraphs 1, 5, 12 part 2 art. 115⁶ of the CC of Ukraine.

22.04.2015 to mentioned persons were reported suspicion of committing criminal offenses under part 4 art. 41, Part 3 art. 365 and part 4 art. 41, Part 2 art. 15, paragraphs 1, 5, 12 Part 2 art. 115 of the CC of Ukraine.

23.04.2015 for all suspects used as a preventive measure of detention in custody.

³ **Article 340.** Illegal interference with the organization or holding of assemblies, meetings, marches and demonstrations, - shall be punishable by correctional labor for a term up to two years, or arrest for a term up to six months, or restraint of liberty for a term up to five years, or imprisonment for the same term.

⁴ **Article 41.** Obeying an order or command Part 4 of mentioned article established - a person, who obeyed a patently criminal order or command, shall be criminally liable on general grounds for the acts committed in pursuance of such order or command.

⁵ **Article 15.** Criminal attempt part 2 of mentioned article established - a criminal attempt shall be consummated where a person has completed all such actions as he/she deemed necessary for the consummation of an offense, however, the offense was not completed for the reasons beyond that person's will.

⁶ **Article 115.** Murder. Part 2 of mentioned article established, that murder: of two or more persons; committed by a method dangerous to the lives of many persons; committed by a group of persons upon prior conspiracy, - shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment with forfeiture of property in the case provided for by subparagraph 6 of paragraph 2 of this Article.

Besides, 20.02.2015 announced on suspicion of committing criminal offenses under part 4 art. 41, Part 3 art. 365 and Part 3 art. 27⁷, Part 3 art. 365 of the CC of Ukraine, - abuse of power and official authority, organization of abuse of power and official powers by subordinate workers, which led to grave consequences, on the night from 18 to 19 February 2014 at the Maidan Nezalezhnosti in Kiev – to the Deputy Head of the Main Department – to the Head of the Public Security Police of the Main Department of Internal Affairs of Ukraine in Kyiv F.P.M.

Meanwhile, the Prosecutor General's Office of Ukraine sent to court indictments concerning:

- two employees of the troop of special purpose of Special police "Berkut", who suspected of committing murders of participants of the Revolution of Dignity on 20 February 2014 on the street Instytutska in Kyiv;

- Former Deputy Minister of Internal Affairs of Ukraine - Head of Staff L.S.I, who is charged with embezzlement of public funds in the amount of 1.17 million UAH for customs clearance of special equipment of enhanced action production of Russian Federation with a view to their future use against protesters;

- six police officers who committed violent actions against protester M. G. or deliberately did not stop such operations; beating of journalist V.V.V.

Sent to the court indictment charges of taking unjust decision by the judge of the Pechersk district court of Kyiv V.S.A. on change of the preventive measure to the commander of the "Berkut" troops S.D.M.

In criminal proceedings № 42014100070000020 from 05.02.2014 for criminal offenses under part 1 and Part 2 art. 365, Part 1 art. 371⁸, Part 2 art. 372⁹, Part 1 art. 375¹⁰ of the CC of Ukraine, checked facts of lawfulness of the detention in January 2014 - February 2015 by officers of special police division "Berkut", soldiers of Internal Troops of the Ministry of Internal Affairs of Ukraine and other employees of the Main Department of Internal Affairs of Ukraine in Kyiv of civilians allegedly for participating in mass disorders.

⁷ **Article 27.** Types of accomplices. Part 3 of mentioned article established - The organizer is a person who has organized a criminal offense (or criminal offenses) or supervised its (their) preparation or commission. The organizer is also a person who has created an organized group or criminal organization, or supervised it, or financed it, or organized the covering up of the criminal activity of an organized group or criminal organization.

⁸ **Article 371.** Knowingly unlawful apprehension, taking into custody, arrest or detention.

Knowingly unlawful apprehension or unlawful taking into custody - shall be punishable by deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years, or to restraint of liberty for a term up to three years.

⁹ **Article 372.** Prosecution of a knowingly innocent person. The act accompanied with charges of a grievous or special grievous offense, and also accompanied with fabrication of prosecution evidence or any other falsification, - shall be punishable by imprisonment for a term of five to ten years.

¹⁰ **Article 375.** Delivery of a knowingly unfair sentence, judgment, ruling or order by a judge (or judges) - shall be punishable by restraint of liberty for a term up to five years, or imprisonment for a term of two to five years.

Continuing investigation in criminal proceedings №12014100020000391 in fact of exceeding by law enforcement officers of official powers and causing bodily harm to citizens of Ukraine during the protests in January 2014 on the street Grushevskogo in Kyiv for the crime under part 1 art. 125¹¹, Part 2 art. 365 of the CC of Ukraine.

In the proceeding of investigative department of the Prosecutors office of Kyiv in the period 2014-2015 were 14 criminal proceedings on the facts of bodily injuries by law enforcement agencies to participating in peaceful protests during the events on the Maidan Nezalezhnosti. Among them, 7 criminal proceedings investigated by investigators of the Main Investigation Department of the Prosecutor General's Office of Ukraine.

By prosecutors office of Kyiv on 16.03.2015 to the court directed indictment in criminal proceedings № 42014110000000066 on suspicion of commander of task force troop № 1 of the Special Police Designation Regiment of the Main Department of Internal Affairs of Ukraine in Kyiv D.M.V. in the commission of a crime under part 2 art. 28¹², Part 3 art. 365 of the CC of Ukraine.

Pre-trial investigation in 6 criminal proceedings of this category in the Prosecutor's Office of Kyiv continues. In 2 criminal proceedings persons declared suspected.

According to numerous statements, received by the prosecutors' office of Kyiv, on unlawful actions of law enforcement agencies against participants of mass protests on Maidan Nezalezhnosti relevant information included in the Unified Register of pre-trial investigations or attached to the data of criminal proceedings to check by investigation.

C. The treatment of prisoners in colonies № 25 and 100

In order to monitor the situation on respect of the legitimate rights and interests of prisoners in the Oleksiivska correctional colony (№ 25) (hereinafter - CC №25) and Temnivska correctional colony (№ 100) (hereinafter - CC №100), to prevent intimidation of prisoners, prevention of cruel treatment towards them and humiliation of dignity and ill-treatment by the staff of these institutions, in division created a working group, structure and objectives of which approved by the division order from 06.03.2015 № 55/OD-5 "On the establishment of a working group on monitoring of activities of the Oleksiivska correctional colony (№ 25) and Temnivska correctional colony (№100) on respect the legitimate rights and interests of prisoners".

¹¹ **Article 125.** Intended minor bodily injury. Part 1 of mentioned article established - intended minor bodily injury - shall be punishable by a fine up to 50 tax-free minimum incomes, or community service for a term up to 200 hours, or correctional labor for a term up to one year.

¹² **Article 28.** Criminal offense committed by a group of persons, or a group of persons upon prior conspiracy, or an organized group, or a criminal organization. Part 2 of the mentioned article established - A criminal offense shall be held to have been committed by a group of persons upon prior conspiracy where it was jointly committed by several (two or more) persons who have conspired in advance, that is prior to the commencement of the offense, to commit it together.

In the period from 17 to 20 March and from 13 to 15 May 2015 by the working group conducted monitoring of activities of CC №25. In the period from 19 to 20 March and from 21 to 22 May 2015 conducted monitoring of activities of CC № 100. To the monitoring involved representatives of the Kharkiv regional supervisory commission, district supervisory commissions, the Public Council under division of the SPtS of Ukraine in Kharkov region and other NGOs.

The results of monitoring of observance of legitimate rights and interests of persons deprived of their liberty in penitentiary establishments and pre-trial establishment of Kharkiv region, that conducted by the working group of division, representatives of the Kharkiv Human Rights Group, there were reviewed on 8, April 2015 at the enlarged meeting of division direction involving senior executives of the subordinated agencies and representatives of human rights organizations and NGOs.

During the monitoring in March and May 2015 were carried out commissions guard tours of the territories of CC №25 and CC № 100, conducted a survey of direction and employees of mentioned institutions, conducted a sample survey of prisoners who are held in these institutions, held receptions of prisoners on personal matters.

There were conducted anonymous surveys of prisoners serving sentences in these institutions. The questionnaire included questions concerning the state of relations between prison staff and prisoners, providing of prisoners by legal and medical aid, public living conditions, possibility of convicted to apply with appeals to the state authorities, public organizations and supervisory commissions. Special attention was paid to the relation of prisoners to conditions and remuneration of work.

The survey results revealed slight variations in the positive and negative responses (on average one to two percent, which is embedded in the confidence limits when calculating the standard deviation of the sample), this may indicate the fact that among the prisoners of CC № 25 and CC № 100 there is a positive attitude to conditions and payment for work that allows prisoners to meet their needs through the use of wage that is sufficient, which is a factor that positively affects the moral - psychological climate among prisoners.

Overall, most respondents rated conditions of punishment as complying with the requirements of current legislation of Ukraine.

Despite the fact that the interviewed prisoners did not confirm the facts of violence and other ill-treatment in mentioned correctional colonies, during a private reception by employees of Prosecutor General's Office of Ukraine two prisoners of Temnivska CC № 100 (S.V.U. and M.G.G.) said on the facts of abuse, beatings and torture committed against them by employees of the institution. Convicted S.D.I. refused to provide any written statements and explanations and could not clearly express the essence of the comments on the order and conditions of enduring the punishment.

Information on mentioned facts putted into the Unified Register of pre-trial investigations, inspected arguments set out by the prosecutor organs of Kharkiv region in criminal proceedings for the crime under part 2 art. 365 of the CC of Ukraine.

On the results of the preliminary investigation on 28.05.2015 investigator decided to close the criminal proceedings due to lack in actions of officers of the elements of crime under paragraph 2 Part 1, Art. 284 of the CPC of Ukraine.

During the monitoring revealed that in institutions are no cases of ill-treatment of persons in custody and prisoners, committing towards them actions that cause physical or mental suffering or degrading.

Supervision of the behavior of prisoners carried out in strict accordance with the "Instructions on the organization of supervision of inmates serving sentences in penal institutions", approved by the order of the State Penitentiary Service of Ukraine (hereinafter - the State Department) from 22.10.2004 № 205restricted, and carried out by around the clock monitoring for the prisoners in their places of residence and work, prevention and suppression of them by illegal actions of compliance isolation of prisoners and security of the staff.

In the institutions do not exist sections of law enforcement and are not allowed the facts of performing the functions of administration by condemned.

The application of special means and measures of physical restraint to prisoners in CC №25 and CC №100 fully meets the requirements of Art. 106 of the Criminal Executive Code of Ukraine. In institutions not established cases of torture and cruel, inhuman or degrading the dignity of people who are in institution. Not allowed cases of ill-treatment with prisoners, arbitrary application to them of physical force and special means or psychological pressure.

In 2014 in CC № 25 and CC № 100 took place by one case of the use of special tools. During 2015, special tools to prisoners in CC № 25 and CC № 100 were not apply. By random survey of prisoners founded that facts of instances to them of physical and psychological impact was absent.

Socio-educational and psychological work with inmates in institutions organized and conducted in accordance with the requirements of the Criminal Executive Code of Ukraine, order of the Ministry of Justice of Ukraine from 04.11.2013 № 2300/5 «On the organization of social, educational and psychological work with convicted persons", guidelines and instructions of the SPtS of Ukraine.

In institutions ensured the right of prisoners on telephone calls in accordance with requirements of Articles107¹³ and 110¹⁴ of the Criminal Executive Code of Ukraine, on the territory of correctional colonies installed payphones of the Public joint-stock company "Ukrtelecom", the amount of which provides the right of prisoners to telephone calls without restriction and also convicted are able to make telephone calls via mobile phones using their SIM cards, any complaints or requests on this subject to the administration of prisoners were not reported.

¹³ **Article 107.** The rights and duties condemned to imprisonment

¹⁴ **Article 110.** Appointment condemned to imprisonment with relatives, lawyers and other persons. Telephone conversations

In accordance with requirements of The internal regulations, approved by the order of the Ministry of Justice of Ukraine from 29.12.2014 № 2186/5 "On approving the internal regulations of penitentiary establishments" for the phone calls, institutions ensured the availability of movable (mobile) communications, which are registered in the institution.

By the administration of the CC № 25 and CC № 100 ensured compliance with requirements of the Law of Ukraine "On appeals of citizens," and other regulatory legal acts regulating the work with appeals of citizens. Cases of the application of disciplinary measures due to filing appeals by convicted or in order to discourage filing appeals, in institutions were not reported.

In institutions ensured the right of prisoners to correspondence in accordance with requirements of Art. 113 of the Criminal Executive Code of Ukraine. Sending by convicted of the letters and appeals made only through the administration of the institution. For this purpose on the territory of institutions established mailboxes with content that is daily removed by the representatives of administration of the institution and submitted to the registry of the institution for mailing.

Appeals that addressed to the Ukrainian Parliament Commissioner for Human Rights, the Prosecutor's Office and the European Court, are not subject to review and not later than in a daily term directed to recipients. If the letters has given in non-work days or holidays, they sent on the first working day.

Appeals submitted in writing, recorded in the registry of the institution, and no later than in three days term sent to recipients. Oral appeals recorded in the journal of receiving of prisoners on personal matters.

Answers on results of the examination of appeals announced to prisoners on their signature on admission, but no later than in three days term, and attached to the personal files of prisoners.

During visit of the CC № 25 and CC № 100 by direction of an administration, officers of agencies of the procuracy always held a reception on personal matters, carried out sample survey on the conditions of detention of prisoners in the institution and order of punishment. Prisoners are able to freely during these visits, apply to any of visitors.

All prisoners serving sentences in the institutions of the Kharkiv region have the opportunity to apply on the reception on personal matters with statements and complaints to direction of institution, direction of administration, prosecutors, members of the supervisory committee and get answers to questions they may have. Schedule of personal reception of citizens by direction of an institution, administration and the State Penitentiary Service of Ukraine are in the available for visitors places.

In institutions equipped rooms for reception of citizens. The results of the work on appeals of citizens considered at the operational meetings of direction of the institutions and the meetings of the commission on work with appeals of citizens.

In institutions put into practice conducting with the prisoners of "Evenings of questions and answers" with an invitation of representatives of government agencies and other public organizations to clarify the provisions of the current legislation. Administration of institutions not doing any obstacles to appeal of prisoners with statements and complaints about conditions of serving punishment, including to the prosecutors, human rights and other state and public organizations.

In the institutions of the Kharkiv region spreaded positive experiences on the creation of the film library of educational videos related to international standards of treatment of prisoners, the relationship between staff and inmates. Continuing the work on the creation of an educational film for prisoners who are serving sentences in the institutions of the region on conditions and procedure for serving the sentence in places of deprivation of liberty, according to requirements of the legislation.

Staff of institutions provided by handout "Fundamental principles of international standards on treatment of persons deprived of their liberty." In the system of official training conducted an additional training on study of international documents on the protection of fundamental human rights with watching of educational materials. These trainings are held on a quarterly basis, according to the quarterly plan and plan of trainings, as part of official training.

In the institutions of the Kharkiv region developed a program on informing of newly arrived prisoners about their rights and obligations of prisoners. Requirements of the Criminal Executive Code of Ukraine, the Criminal Procedural Code of Ukraine, the Criminal Code of Ukraine and normative legal acts regulating the order and conditions of punishment of prisoners brought to their attention under signature in form according to Annex 3 to the Rules of internal regulations, receipts attached to personal files of prisoners. With all the prisoners in the divisions of the social and psychological services conducted additional lectures to explain the order and conditions of punishment, basic rights and duties of prisoners with taking into account the amendments to the criminal-executive legislation. Provided lectures for prisoners on cable television networks of the institutions.

Municipal-domestic provision of prisoners in the CC № 25 and CC № 100 is organized according to the requirements of governing orders of the SPtS of Ukraine and the Ministry of Justice of Ukraine and aimed at improving custody of prisoners, namely the proper organization of feeding and improving the organization of municipal-domestic provision of persons held in the institution.

Quality Control on cooked food and completeness of issuing food for people held in the facility daily carried by a health worker, duty assistant of the head of institution, responsible for in the institution and deputy head of the institution on intendency and communal - domestic provision or a senior inspector of intendency and economic support. In the dining of the institutions is a daily ledger on quality control of cooked food, which specifies the rules bookmarks of output products and ready meals, and medical findings and the result of checking compliance with quality and calorific value of ready meals.

Convicted fully equipped with a hot three meals, provided with clothing, shoes by season and bedding. In institutions working in repair shops of clothes and shoes. The work to improve institutions providing of uniform and accessories through production activity and other incomes of on the level at least 25% of the regulatory requirements.

Bathing-laundry service is at the proper level, working with all sanitary-hygienic standards. Available laundry equipment is in working order, which enables to provide need in laundry in full, sentenced to 100% soap provided.

At the enterprise of the CC № 25 and CC № 100 labor of persons sentenced to imprisonment, to be paid for the actual work done based on the enterprise approved rules, rates, hourly rates on the basis of profession, qualifications of convicted, complexity and conditions of work they performed. At the enterprises approved hourly wage rates for hourly workers and piece workers depending on the industry. Prices, tariff grid and salaries of convicted calculated in accordance with the requirements of the Labor Code of Ukraine, the Law of Ukraine "On labor payment" and in accordance with the Law of Ukraine "On the State Budget of Ukraine for 2015", under the minimum wage. On the products manufactured at enterprises (works, services) prices and standard of time brought to the attention of enterprise direction of workshops, which are familiar to convicted.

Specification on work performed up for the actual volume of work performed according to the book of variable tasks issuing and in accordance with an output of commodity products. Quantity of commodity products produced for the month for the whole enterprise corresponds to the number of manufactured products in a compound outfits.

Remuneration of convicts and deductions from their wages is conducted in accordance with the Law of Ukraine "On labor payment", order of the Ministry of Justice of Ukraine from 07.03.2013 № 396/5 «On approval of Instruction on working conditions and wages of sentenced to restriction of liberty or imprisonment". Work of prisoners charged in accordance with its quantity and quality. Facts of output prisoners to work without paid remuneration have not been established. With wages and the number of manufactured products per month sentenced necessarily acquainted in order for piece of work.

During 2015 at the enterprise of the CC № 25 conducting the work on increasing prices for manufactured products and increased prices of piecework wages. Measures taken have allowed this year to increase the wages of prisoners working in manufacturing, which in January-April 2015 amounted to 761 UAH., that is 197 USD., or 35% more than average wages of prisoners in general for 2014.

In January-April 2015 at the enterprise of the CC № 100 it was increased selling prices for manufactured products taken measures allowed in the current year to increase the wages of prisoners working in manufacturing, which for 4 months in 2015 amounted to 754 UAH., that is 173 UAH., or 30% more than average wages of prisoners in general for 2014.

In order to conduct explanatory work among prisoners on wage by direction and staff of enterprises of institutions the reception of prisoners on personal matters conducted, the commission held rounds branches of social and psychological services.

Medical workers of Kharkiv predetention centre are not directly involved in the administrative procedure of transfer of detained persons held in custody, to employees of Escort Service to institutions. All persons, coming to hold in a predetention center, once examined by duty health professional.

Medical examinations of prisoners and detainees in the predetention center and penitentiary establishments carried out of earshot of employees, who do not perform duties of health professionals.

In the case of detention on a person who came to the pretrial detention facility of injuries, healthcare worker carried out a thorough examination and record in a medical card on the application for the injuries, their nature and location of the injury in terms of "graphic of body." Following the review determined the need for the necessity of care and further medical observation. The detained persons and their lawyers, at their request, are able to obtain copies of medical records.

At the CC № 25 with employees of medical part of an institution held a meeting to address the deficiencies in the conduct of medical records that were identified during the visit of the CPT.

Instituted new "Journal of admission, discharge of sentenced and failures of hospitalization of medical aid station treatment of institution" (inventory №3023) according to the requirements of the joint order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine from 15.08.2014 №1348/5/572 "On approval of Procedure of granting the medical assistance to prisoners sentenced to imprisonment"(p.4, chapter 5, Section II). Responsible for logging appointed paramedic of medical unit.

Removed shortcomings on conducting in-patient medical records (case history) that were identified during the visit. All in-patient medical card (the form № 003/0) for convicts admitted to hospital medical unit of the CC №25 instituted and maintained in compliance with the order of Ministry of Health of Ukraine from 14.02.2012 №110 «On approval of primary records forms and Guidance on their

fill, that used in health care institutions, regardless of ownership and subordination". Responsible for maintaining of medical records of in-patient appointed therapeutic and psychiatrist.

Observation of prisoners, who are in hospital of medical unit performs daily therapeutic of medical unit (weekends and holidays - duty medical officer). Entries in the medical record №003/0 (in-patient medical cards) done every two or three days in the case of lung disease and every day - in severe cases and cases of moderate severity. Head of the medical unit examines convicts, who are treated at the hospital of the medical institution at least once a week without fail and obligatory - the first day of convicted arrival and before his discharge. Adjusted work on joint inspection of ill prisoners on admission of them to medical unit by chief of the medical unit and therapist; organized regular rounds hospital by chief of the medical unit with the therapist with the corresponding entry in the medical records of inpatients.

In leaves of medical appointments of prisoners, who treated in hospital of medical institution, the doctor made a mark with its signature on the appointment of appropriate medication to the patient and duty paramedic mark next to his signature on the execution of destination). At present time, established laboratory inspection work on ill prisoners (both outpatient and inpatient treatment of medical unit institution). Results of laboratory and instrumental examinations involved in the outpatient medical cards and medical records. Treatment, destination of surveys to sick prisoners is under active examination and treatment protocols approved by the appropriate orders of the MOH of Ukraine. Term of treatment of prisoners in the hospital medical institutions of not exceeding 30 days, as provided by Part 5 Paragraph 1 of the Joint order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine №1348/5/572 from 15.08.2014 "On approval of Procedure of granting the medical assistance to prisoners sentenced to imprisonment".

D. Treatment of sentenced to life imprisonment in a colony № 100

Conditions of treatment of sentenced to life imprisonment in the Temnivska correctional colony (№ 100) (hereinafter - CC №100) fully comply with the internal regulations.

In accordance with requirements of paragraph 1 of Section XXXIII of the internal regulations, sentenced to life imprisonment are held in maximum security sector in CC №100 separately from other prisoners and persons detained, in separate cells, by definition of administration of the institution.

On persons, sentenced to life imprisonment in full extend spreads basic rights and duties of prisoners defined by the Criminal Executive Code of Ukraine, as well as the Internal regulations.

Self-regulating organization among convicts to life imprisonment are not created.

To ensure the security of staff of penitentiary establishments and prisoners, prevent the commission of their side of crimes, sentenced to life imprisonment, who are prone to escape, attacks on administration of penitentiary establishment and hostage-taking, can be transferred to other cells with obligatory consideration of psychological compatibility of prisoners.

Sentenced to life imprisonment are placed in cells with the requirements of a separate holding provided by the requirements of Art. 92 of the Criminal Executive Code of Ukraine.

The application of special means to sentenced to life imprisonment fully meets the requirements of paragraphs 1-4 Section XX of the Internal Regulations.

In the derivation of the cells or escort on the territory of institution sentenced to life imprisonment, who are prone to escape, hostage-taking, attacks on the administration, for them used handcuffs considering disability and their health. In applying handcuffs convicted holding hands behind.

Escorting of sentenced to life imprisonment on the territory of penitentiary establishment is carried out by one accompanied by at least two representatives of administration of penitentiary establishment and cynologist with service dog.

According to paragraph 2 Section XXXIII of the Internal Regulations, while escorting sentenced to life imprisonment within the building sector of maximum security level cynologist with service dog not involved.

According to requirements of paragraph 1 of section XIV of the Internal Regulations and art. 151 of the Criminal Executive Code of Ukraine sentenced to life imprisonment is entitled to receive once a month short-term appointment and every three months long visits with close relatives (spouses, parents, children, adoptive parents, adopted, whole blood brothers and sisters, grandparents, grandchildren). Long appointments may be available for couples that lived as one family, but not married, upon condition that they have common minor children.

Sentenced to life imprisonment given daily walk of one hour length.

In addition, in accordance with paragraph 3 of Section XIV of the Internal Regulations for the prisoners, who are held in maximum security sector equipped with appropriate place and secured the right of prisoners to have access to the Internet.

According to requirements of art. 103 of the Criminal Executive Code of Ukraine administration of the Temnivska correctional colony (№100) have the right to use audio-visual, electronic and other technical means to prevent escapes and other crimes, violations of the statutory order of punishment, obtain the necessary information about the behavior of prisoners.

Annex 2 to letter of the Ministry of Justice
on ___ June 2015 №_____

On the activity of the Berdychiv correctional colony (№70) (hereinafter - CC №70) of division of SPtS of Ukraine in Zhytomyr region

At this time, prejudicial inquiry under Part 2, Art. 365 of the CC of Ukraine (letter of the Ministry of Justice from 11.02.2015 № 12.2-41/38) continues, its progress taken under control of the Prosecutor General's Office of Ukraine.

The observance of the constitutional rights of prisoners in the CC № 70 was discussed at the working meeting of the Deputy Prosecutor General's of Ukraine together with senior executives of the State Penitentiary Service of Ukraine and prosecutors agencies of Zhytomyr region.

As a result of which to all local authorities of State Penal Service of Ukraine sent an assignment, providing mandatory in the case of complaints of prisoners and persons taken into custody, on the illegal actions of the administration, associated with intimidation of convicted, violent attitude towards them and humiliation of their dignity and mistreatment from the side of the staff of penitentiary establishments and pre-trial establishments to carry out appropriate official investigation, materials to be sent to law enforcement agencies.

To the institutions of the State Penal Service of Ukraine forwarded Recommendations on the investigation by staff of penitentiary establishments and pre-trial establishments of allegations of mistreatment in the SPtS of Ukraine, developed by European and national experts.

Since the resolution of issues of concern related to the violation of the constitutional rights of prisoners also requires intervention of the State side, Prosecutor Generals of Ukraine on 12.09.2014 and 30.04.2015 sent letters to the Prime Minister of Ukraine to bring standards of living space per one prisoner in line with European standards and improving provision of health care of detainees and convicted prisoners.

In order to restore the constitutional rights of prisoners by prosecutors agencies introduced 109 documents of responses, which are currently pending.

Status of protection of constitutional rights of detainees and prisoners during their stay in detention facilities and penitentiary establishments is a priority in the work of the Prosecutor General's Office of Ukraine and prosecutors at the local level.

Under the guidance of Head of the State Penitentiary Service of Ukraine from 08.05.2015 №12-1982-PL/2-15 by direction of division of the SPtS of Ukraine in Zhytomyr region considered excerpt from the report to the Ukrainian government on results of the visit to Ukraine by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 16 September 2014, and the measures taken to eliminate detected violations and on implementation of the recommendations.

The State Penitentiary Service of Ukraine secured the inclusion to the training programs and personnel development (including operational division and surveillance and security division) of CC №70 of provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and other international legal acts on human rights and treatment of prisoners (order of their application in the correctional service). Also studied the practice of application of decisions of the European Court of Human Rights in the national legal system of Ukraine.

With the staff of surveillance and security division during training sessions and daily briefings emphasizes the exclusion of cases of ill-treatment of prisoners, committing against them intentional acts, that cause physical or mental suffering or humiliating human dignity.

Administration of the institution ensured respect for the rights of prisoners specified by legislative and regulatory acts.

Provided a full, thorough and impartial investigation of complaints of people, who held in the institution on improper handling.

The practice of application of security measures to convicts, physical effects and special means is in strict compliance with the legislation. The staff on duty when entering the service mandatory checked on knowledge bases and procedure for the application of physical force, special means and firearms by personnel of correctional institutions. Since 2015, special means and physical force were used in a colony once. Violations of the procedure and the grounds of such an application by the inspections (including prosecutors agencies) were not established.

Work on health-care provision in the institution is organized and conducted in accordance with the requirements of the Law of Ukraine "The fundamentals of the Ukrainian legislation on health care", the Criminal Executive Code of Ukraine, Order of the Ministry of Justice and Ministry of Health of Ukraine from 15.08.2014 № 1348/5/3572 «On approval of the organization of medical care for prisoners", other regulatory acts of the State penitentiary Service of Ukraine, the annual and quarterly plans.

Situation with the organization of the medical-sanitary provision of prisoners compared to last year improved significantly. None fatal case of the disease among prisoners was registered. There is decrease of the incidence of active form of TB in 2 times (2 cases in 2015 to 4 cases in 2014).

On agreement with the Berdychiv district hospital (via mobile fluorography) in November-December 2014 conducted routine fluorography of prisoners that covered 100% of prisoners.

Improved work with HIV-infected prisoners, customized interaction with the regional center for prevention and fight against HIV/AIDS of Zhytomyr region on dispensary work with this category of prisoners.

According to the order of division of the SPtS of Ukraine in Zhytomyr region from 27.11.2014 №211 "On conducting a comprehensive survey of prisoners of the Berdychiv correctional colony (№70), in the period from 01.12.2014 till 04.12.2014 by medical specialists of penitentiary establishments (therapeutic, surgeon, traumatologist, dermatovenerologist) conducted a comprehensive survey of prisoners of CC (№70), using ultrasound diagnostics; totally examined and given recommendations on the treatment to 117 persons. According to the instructions of the division from 14.04.2015 № 5/11-2956 "On the implementation of schedules for consultative-practical assistance providing", medical examination of prisoners of CC (№70) by doctors specialists of the region is scheduled on 10, June 2015.

From November 2014 up to the present moment by health protection sector of the division of the SPtS in Zhytomyr region to the Department of Health protection of the SPtS of Ukraine sent 81 request for convicts hospitalization in specialized hospital institutions, received 79 job orders for hospitalization, according to which convicted transferred to specialized hospital institutions.

Also, on the improvement of medical-sanitary provision indicates a decrease almost in 2 times of the number of complaints from prisoners, so for 5 months 2014 received 15 complaints, while in 2015 - 8 complaints.

In conditions of limited funding started repair of medical unit, at present conducted repairs of manipulation cabinet.

During the last quarter of 2014 and first quarter of 2015 by division of the SPtS of Ukraine in Zhytomyr region and administration of Berdychiv correctional colony (№ 70) taken a number of measures to improve the operational situation in this institution, organization of social and educational work with convicts and on defect corrections, revealed by employees of the central office of the SPtS of Ukraine.

Thus, intensified co-operation with public and religious organizations with aim to recovery of moral and psychological climate among the prisoners, organizing their useful leisure.

In order to familiarize with the conditions of prisoners serving a sentence, carrying out with them of an appropriate outreach, during 2015 institution attended by representatives of the civil society, supervisory commission 32 times. Also, for the purpose of carrying out activities of cultural and educational nature with convicted, the institution has repeatedly visited and continue to visit representatives of non-governmental organizations such as the International public organization "The Reformation", All-Ukrainian Charitable Organization "All-Ukrainian Network of People Living with HIV/AIDS".

Institution regularly visited and conduct spiritual and awareness-building work with religious denominations held, in particular - the Ukrainian Orthodox Church, representatives of the Church of Evangelical Christians-baptist, Seventh Day Adventists, Ukrainian Christian interdenominational mission "Spiritual and charitable care in custodial settings," Spiritual division of Churches of Evangelical Christians of Ukraine etc.

For the purpose of effective employment of prisoners in their spare time, taking steps to ensure the leisure, physical training and sports, organization of mass cultural activities.

At the institution created and operate six groups of socially useful direction that promotes prisoners in creative qualities. To attract sentenced to physical training and sports, sports competitions in the institution is equipped with four sports grounds, playground for mini football competitions and volleyball.

The institution's library stock has more than seven thousand copies of artistic and journalistic literature, and at the average is twenty books per prisoner. During the reporting period the institution's library stock replenished of 1,500 exemplars. By prisoners and their relatives subscribed to about 200 exemplars of periodicals. All accommodations of divisions of social and psychological services (SPS) provided with TV, equipped and operates its own radio network and cable television network.

Significantly enhanced outreach work with inmates.

During 2015 by direction of institution held 28 receptions of prisoners on personal matters, where accepted more than 140 people. By direction of division in 2015 was made 5 receptions of prisoners (accepted 34 persons).

In order to improve law expository work among prisoners, clarify of amendments to the legislation of Ukraine during the covered period by the division of the social, educational and psychological work carried out measures to clarify the order of the Ministry of Justice of Ukraine from 29.12.2014 № 2186/5 "On Approval of Internal Regulations of penitentiary establishments", the application of incentive norms to convicted. To this end, in each living space, in public places of prisoners presence, placed at information stands of rooms of lengthy visits and rooms of expectations, in the library of the institution specifically designed and printed brochures which fully reflects changes to the order of serving the sentence in accordance with the new rules. Every convicted person acquainted with the requirements of the abovementioned order on receipt, with the obligatory attachment to their personal files of prisoners. By the administration of the institution these changes were explained to convicts directly during personal receptions and during rounds residential of institution, as well as by heads of divisions of the Social psychiatric services. In addition, the audio lecture with official text of the Rules is broadcast by the radio network through radio broadcast facility.

Measures have been taken to improve the organization of the use to prisoners of promotional norms of the Law. In November - December 2014 was considered and adopted 30 positive decisions on changes in the conditions of prisoners under Article 101 of the Criminal Executive Code of Ukraine¹⁵. In 2015, to 45 prisoners applied the provisions of the relevant article of the Criminal Executive Code. Resumed the practice of applying to prisoners measures of promotion rights of heads of social and psychological services divisions. Thus, during this year relevant incentives were applied to 95 people.

Educational-consulting Center of institution fully equipped with textbooks. In the classrooms before the start of the new academic year held all the necessary repairs. An appropriate work to maximize the involvement of prisoners who have no complete secondary education carried out. So, currently in secondary school learns 64 sentenced or 95% of total number of those who have no education.

Since 2015 the library fund replenished of 205 textbooks.

Also, in institution operates a vocational school, where prisoners can get manufacturing professions: frame-saw operator, electrician, welder, seamstresses, machine woodworking machines. Currently, in the educational institution trained 40 students. The educational institution fully ensured by visual aids and educational literature.

In March 2015, division together with the representatives of executive office of the SPtS of Ukraine checked the order of application of incentive norms to convicted. To eliminate the identified shortcomings in the organization of social and psychological work with convicted persons held the following job:

- question of the length of stay of convicts in the area of enhanced control of institution considered by the administration of the institution at a meeting of preventive commission on the need to extend their content in this area once every three months (since the beginning of 2015 from the area of enhanced control to area of resocialization transferred - 14 convicts);

- taken steps to identify and filing on the preventive account of convicts who have committed violations of the established order of punishment, or they are going to do so, now in the Berdychiv correctional colony (№ 70) on preventive supervision is 159 convicts (2014 - 71); for these prisoners secured by the proper order the experienced staff, relevant orders updated and updated on a monthly basis;

¹⁵ **Article 101.** Transfer of condemned to imprisonment

Prisoners who are on the path of correction are transferred from the premises of cell-type in conventional living quarters of the colony of maximum security level or colony of medium security level - after the actual serving of not less than one-fourth of the sentence imposed by the court; of common premises of colony of maximum security colony to colony of middle level of security - after actual serving at least half of the sentence imposed by the court; in colonies of minimum and medium security level - to station of social rehabilitation after the actual serving.

- brought to the appropriate level the work on identifying persons, who need increased control over their behavior on the part of staff of the institution, the study of psychological characteristics, providing recommendation to the staff on their preventive account by psychologists of institutions; keeping convicts with psychiatric deviations of medical unit of the institution responsible to recording of psychologists of institution;

- removed defects in the organization and operation of pasportization of convicted and there is a significant improvement in this area (at the end of April 2015, in the institution 182 convicts kept, and in their personal files have not a passport of citizen of Ukraine (same period last year - 263). Since the beginning of 2015 in the institution documented and issued the passport of citizen of Ukraine to 31 convicted (2014 - 10). The cases of the release of convicts from the institution without passports of citizens of Ukraine - are excluded.

Staff of social, educational and psychological work of Berdychiv correctional colony (№70) is aimed at a clear and unconditional fulfillment of the requirements of the Criminal Executive legislation of Ukraine and departmental normative legal acts to maintain proper public order.

In view of foregoing for the socio-psychological service of the CC №70 identified the following priorities:

- reducing of violations level of the established order by convicts serving sentence, ensuring a balanced application to convicted of disciplinary measures;

- prophylaxis and prevention of the commission of violations by condemned of the internal regulations, self-harms and suicides;

- strengthening of control over the organization of educational, clarification of rights, preventive work by heads of divisions of SPS with convicted, located in the area of enhanced control;

- revitalization of the work of heads of divisions of SPS towards employment of prisoners who have claims for execution letters;

- strict implementation by direction of institution of the schedule of informational hours and other events of mass cultural, sporting character with convicts;

- assistance to convicted in a drawing-up of the passport of citizen of Ukraine. Continue work on the mandatory addition of passport documents to the personal files of prisoners, where they are situated at the place of residence.

To stabilize the operational environment in the CC №70 in terms of improving industrial and economic activity of the enterprise of institution reviewed and increased prices for the production of apparel products, making handles for shovels, manufacture of wood and wood products.

In order to create conditions for the realization of the right of convicted persons to decent wages in accordance with Art. 120 of the Criminal Executive Code of Ukraine¹⁶ work of persons paid in accordance with its quantity and quality. Forms and wage system, labor standards and rates are set by regulations of the SPtS of Ukraine.

Prices of manufacturing products are set depending on the time required to manufacture products and hour wage rate, that determined depending on the size of the minimum wage in the country at the moment.

¹⁶ **Article 120.** The Payment of condemned to imprisonment

In correctional colonies to the personal account of the convicts, who working in the production, to the personal account it is counted regardless of all deductions at least twenty-five percent of their assessed monthly earnings, and on the personal account of the convicted men older than sixty years, women - more than fifty-five years old, the disabled of the first and second groups, of patients with active tuberculosis, pregnant women, women with children in child care centers to correctional colonies - not less than fifty percent of their assessed monthly earnings.

Convicts serving sentences in juvenile correctional facility, sections of social rehabilitation of correctional colonies, colonies of a minimum level of security with eased conditions of detention, as well as women prisoners who are allowed to live outside the correctional colony, to the personal account it is counted, regardless of all deductions at least seventy-five percent of the assessed them monthly earnings.