ON TORTURE AND CRUEL TREATMENT IN UKRAINE  
(1997-2001)

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INTRODUCTION

On 14-15 November 2001 the UNO Committee against torture reviewed the fourth periodic report of Ukraine on the measures for realizing the obligations of Ukraine according to the UN Convention against torture and other cruel, inhumane or degrading treatment or punishment. The control mechanism of the Committee requests reporting one tome per four years of all state-members of the Convention on measures devoted to prevention of torture, such as: changing a legal acts, reviewing a legal practice, humanizing the execution punishment system and so on.

Since April 1997, when the third periodic report was considered, a number of positive changes have occurred in Ukraine. The death penalty was acknowledged by the Constitutional Court as contradicting the Constitution, the incarceration for life was introduced instead. The Ukrainian Parliament signed and ratified Protocol No. 6 to the European Convention on human rights, Protocols Nos. 1 and 2 to the European Convention on preventing torture and inhumane or degrading treatment or punishment, the reservation was removed concerning Articles 20, 21 and 22 of the UNO Convention against torture, which meant the prohibition to consider by the UNO committee against torture of individual complaints of victims of torture and investigation such complaints by the committee. Torture is defined as a separate corpus delicti in the new Criminal Code of Ukraine (CC), which came into effect on 1 September 2001. The new CC extended the application of sanctions not connected with incarceration, which permits to hope that in future the number of the incarcerated will diminish. The Provisional statements of the Constitution were cancelled on 28 June 2001; this introduced some changes into the criminal and procedural legislation, which are very important for the prevention of torture. The Department in penitentiary matters was created on the basis of penitentiary directorate of the Ministry of Interior. Later the Department was transferred from the Ministry of Interior and became a separate organ of the executive power, penitentiary establishments became more open. Owing to the principal position of the Ministry of defense and the Main military prosecutor’s office, the extension of their co-operation with human rights protection organizations the notorious «dedovshchina» in the armed forces has weakened. Due to efforts of human rights protection organizations the problem of torture and cruel treatment moved to a focus of attention of mass media.

At the same time, it is obvious that the cases of applying torture in Ukraine during inquiry and preliminary investigation become more often, and actions of militia become crueler. Some facts of death as a result of torture are known. As before, no system exists of independent investigation of complaints against cruel actions of militia. Service investigations are carried out by officers of another directorate of the Ministry of Interior and they are not fast and efficient. It is next to impossible to make prosecutor’s office start a criminal case. The court control over the activities of law-enforcing organs is not efficient, and the public control is rather fruitless. The efforts of the state organs to distribute the information about international mechanisms of preventing torture and cruel treatment are insufficient. Unfortunately, these problems are not even sketched in the fourth periodic report of Ukraine. Instead the report abounds in declarations that Ukraine steadily follows the policy of the priority of observing interests of individuals. That is why it is meaningless to comment the fourth periodic report, instead the Kharkiv Group for Human Rights protection (KG) has attempted to conduct an independent analysis how the UN Convention against torture is observed.

This report has been prepared on the basis of available official documents, analysis of the Ukrainian legislation, the KG experience in legal aid to persons, whose rights were violated, reports of Ukrainian NGOs (the Sevastopol and Vinnitsa human rights protection groups, regional branches of the association «Zelény svit», Donetsk and Lviv «Memorial», Lugansk public committee for protection of constitutional rights and freedoms of citizens, Lugansk branch of the committee of voters of Ukraine, committee «Helsinki-90», Ukrainian section of the International society of human rights, regional branches of the Union of soldiers' mothers of Ukraine and other similar organizations) and publications in mass media on facts of torture and cruel treatment of the suspects, convicts, servicemen, refugees and other groups. The review of these information sources is presented in addition to the report, which was published as a separate book (272 pages) «Against torture. Review of the information sources on cruel treatment and torture». The KG sent the report in Russian and English to the UN Committee against torture and other international institutions that are issued the problem of torture and interested in receiving such information.

It should be noted that state officials prepared the fourth periodic report and other like documents without participation of public. In our opinion, it is obviously to open a process of preparation of state reports on human rights and to publish all reports. That is why the KG together with the Information Office of the Council of Europe in Ukraine organized and held the seminar «European legislation on torture and other cruel, inhuman or degrading treatment or punishment and improvement of the Ukrainian law» on 17-18 October in Kyiv. On 19 October the KG held a press-conference devoted to torture and cruel treatment. In addition, the KG prepared and published the second book «Against torture. International mechanisms on prevention of torture and cruel treatment» in Ukrainian. It includes the European Convention on Human Rights and Additional Protocols for it, materials on preparation of appeals to the European Court on Human Rights, European Convention on prevention of torture and other cruel, inhuman or degrading treatment or punishment, UN Convention against torture, the third periodic report of Ukraine (1997), commentaries to the third periodic report of the Amnesty International and the Ukrainian NGOs, fourth periodic report of Ukraine, KG report and
materials of discussion on the third and fourth periodic reports in the UN Committee.

Furthermore, we propose to attention of English-speaking readers this book consisted of two parts. First part includes fourth periodic report of Ukraine and KG report as well as some other materials. Second part is a collection material from the KG bulletin «Prava Ludyny» («Human Rights») concerning torture and cruel treatment published in 1997-2001.

Yevgeniy Zakharov, Co-Chairman of the Kharkiv Group for Human Rights Protection

REPORTING TO UN COMMITTEES

CONSIDERATION OF REPORTS SUBMITTED BY STATE PARTIES UNDER ARTICLE 19 OF THE CONVENTION AGAINST TORTURE. UKRAINE

Committee Against Torture
Fourth periodic reports due in 2000
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1. INTRODUCTION

This report is submitted pursuant to article 19, paragraph 1, of the Convention, which entered into force in Ukraine on 24 February 1987. It has been compiled in accordance with the general guidelines regarding the form and content of reports to be submitted by States parties under article 19, paragraph 1, of the Convention. It covers the period from 1997 to 1999.

Since submitting its third periodic report, Ukraine has withdrawn the reservations it entered when it signed the Convention on 27 February 1986 regarding its refusal to recognize the jurisdiction of the Committee against Torture. By Act No. 234-XIV of 5 November 1998, under which these reservations to the Convention against Torture were withdrawn, Ukraine fully acknowledged the Committee's jurisdiction over its territory, as provided for by articles 21 and 22 of the Convention.

The report was prepared as a collaborative effort by the Ministry of Justice, the State Penal Correction Department, the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Office of the Procurator-General, the Security Service, the Supreme Court, the Ministry of Labour and Social Policy, the Ministry of Public Health, the Ministry of Education and Science, and the State Statistical Committee.

Since the submission of its third periodic report in 1997, Ukraine has followed an unswerving policy of advancing the interests of the individual and according primacy to international law, as reflected in the Constitution and constantly evolving legislation.

The work of the Ukrainian penitentiary system is closely regulated by the Corrective Labour Code, which was adopted in 1970 and entered into force in 1971. Since Ukraine contributed to the elaboration of the Standard Minimum Rules for the Treatment of Prisoners in its capacity as a Member State of the United Nations, the Code incorporates the main principles outlined in these Rules. The Code conforms to the Rules and is still in force.

Since independence, more than 100 amendments and additions have been made to the Ukrainian Corrective Labour Code, all of which have been designed to humanize and democratize the execution and serving of punishments and ensure that the basic rights and freedoms of the individual are observed.

The systematic overhaul of the penal correction system in line with defined objectives is now in its ninth year, as mapped out in the reform blueprint promulgated by the Decision of the Cabinet of Ministers of 11 July 1991.

On the assumption that the penitentiary system should be an independent social entity, and in conformity with the reform blueprint and the recommendations made by experts from the Council of Europe, the Ukrainian President L.D. Kuchma promulgated a decree on 22 April 1998 establishing the State Penal Correction Department as a central government authority based in the Ministry of Internal Affairs Main Administration for Penal Correction. The same decree outlined an array of measures to reform the work of the penal correction system. On 31 July 1998 the President issued a decree ratifying the Regulations on the State Penal Correction Department.

On 11 December 1998 the Verkhovna Rada of Ukraine adopted the State Penal Correction Department (Consequent Amendments and Additions to Certain Legislation) Act, thereby establishing the legal framework for the autonomous operation of the Department.

On 12 March 1999 another presidential decree finally transferred the Department from the jurisdiction of the Ministry of Internal Affairs.

The reorganization of the Ukrainian penal correction system has simplified the administrative framework, which has become more flexible, responsive and efficient now that all resources are concentrated in a single department, i.e. the warding, control and security functions have been amalgamated. This arrangement also excludes extraneous functions and interference by officials not directly responsible for the work of the penal correction system.

In 2000 the Verkhovna Rada adopted the Correctional System (Structure and Personnel) Act, which stipulates that the proportion of institutional personnel shall be 33 per cent of the total population of convicted prisoners or persons deprived of their liberty.

In 1997 the Council of Europe published an assessment of the Ukrainian prison system as part of a joint programme of the European Community and the Council of Europe to reform Ukraine’s legal system, local government and law-enforcement apparatus. The assessment was based on a study of Ukrainian law and its enforcement by 22 institutions in 8 different regions. There were also recommendations on reforming the penal correction system.

Great efforts have been made to ensure respect for human rights and the alignment of national legislation with European norms and standards, and in recent years signifi-
cant steps have been taken to humanize criminal punishments, strengthen the rule of law, and stabilize the situation in custodial institutions.

To ensure proper conditions for the detention of remand prisoners and prisoners under sentence, in 1994 the Cabinet of Ministers adopted a special programme to align conditions in custodial institutions with international standards. The scheme yielded an extra 26,200 places. Efforts to increase the number of available places and improve conditions of detention are continuing.

The increase in the inmate population is seriously exacerbating problems connected with accommodation, job placement and the development of proper conditions for detainees and prisoners. Accordingly, as well as making efforts to increase the capacity of custodial establishments and upgrade them to international standards, Ukraine is working to reduce the size of the prison population.

Motivated by humanist principles, the Verkhovna Rada has passed amnesty laws during the period 1997-2000 which have reduced the number of convicted prisoners. However, the biggest decline in the number of convicted persons will be brought about by reforms of the justice system and the adoption of new criminal legislation making greater provision for non-custodial sentences. This more than anything else will defuse the accommodation crisis in prisons and remand units.

Future reform is intended, first and foremost, to give the penal correction system a more human face by taking account of international experience, humanist principles, the rule of law, democracy, fairness, and differentiated and individually tailored approaches to re-educating offenders. Also envisioned are radical changes to existing legislation, reorganization of the penal correction system, and the adoption of a new Code for the Execution of Criminal Penalties that takes account of international norms and standards and foreign experience. The draft Code is a watershed document which satisfies modern requirements and reflects international penitentiary practice. Among other things, it proposes to introduce innovative procedures and conditions for the execution of criminal penalties based on a differentiated and individual approach to reforming offenders. To this end, penal establishments will be reclassified with respect to their level of security, conditions of detention will vary according to how far the offender has been reformed, and inmates will have a guaranteed right to be visited, receive messages and packages, purchase food, and transfer their prison wages to personal accounts. Prisoners' welfare, health care and hygiene requirements will be more clearly regulated, and psychological, educational and other assistance will be provided. The reform makes provision for greater public involvement in work with offenders and heightened supervision of the work of penal establishments.

The Penal Correction Department has also prepared a prison service bill outlining the organizational and legal principles of the work of the service and specifying the legal and social protection available to personnel, thereby raising the prestige of the profession and providing job incentives.

In February 1998 and July 1999 a delegation from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited correctional establishments in Ukraine in order to evaluate compliance by prison authorities with the provisions of the European Convention of the same name. By and large, the Committee gave a positive assessment of efforts by the prison authorities to develop correctional establishments, but at the same time it issued a number of recommendations concerning the regime applied to prisoners convicted of capital crimes and the general conditions in which remand prisoners are held.

In order to ensure closer cooperation with CPT, on 20 November 1999 the Cabinet of Ministers issued Order No. 1257 designating the Penal Correction Department as the national liaison authority for relations with CPT. The Penal Correction Department has proceeded to carry out these recommendations. Many have been successfully implemented, and work is continuing to ensure compliance with the rest.

Particular attention has been paid to health care for special categories of prisoners in the correctional system, and closer contacts have been established between the medical units at penal correction establishments and treatment centres of the Ministry of Public Health. Urgent cases are dealt with exclusively in infirmaries of the Ministry.

All detainees and prisoners must undergo a compulsory medical check-up in order to avert the spread of infectious diseases.

Staff responsible for prison amenities, medical officers and warders perform constant checks to ensure that inmates' food is prepared on time and to a decent standard, and that sanitary and hygiene standards are maintained.

The following new procedures and methods have been introduced at correctional labour facilities:

- Rooms have been set aside to perform acts of worship and religious services;
- Representatives of religion pay visits at regular intervals;
- Provision has been made for pastoral visits and psychological counselling;
- The former cumbersome system of numbering correctional institutions has been superseded by a system whereby establishments are designated by their locality.

Organizational and operational ties with the military have been severed, and accordingly the supervisory, security and warding functions formerly exercised by Ministry of Internal Affairs troops were transferred to the Penal Correction Department in 1998-1999.

Other measures to improve amenities, medical care, food and job placement for detainees and prisoners are being implemented according to plan. Work is continuing to align conditions of detention in remand centres and prisons with international standards and to comply with the core provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.
or Punishment. These efforts are kept under constant review by the Government.

Ukraine has signed and ratified Protocol No. 6 to the European Convention on Human Rights providing for abolition of the death penalty in peacetime. Pursuant to the Criminal, Criminal-Procedure and Corrective Labour Codes (Amendment) Act (No. 1483-III) of 22 February 2000, the death penalty has been replaced by life imprisonment.

The following statistics apply in respect of persons convicted of capital crimes whose sentence has not been carried out:

January-February 1997 – 168 persons, 9 of whom were put to death (for sentences handed down in previous years);

1998 – 131 persons;

1999 – 120 persons.

No one convicted of a capital crime in 1998 or 1999 has been put to death, according to reports reaching the courts. Since the beginning of March 1997 there has been a moratorium on the use of the death penalty in Ukraine and no executions have taken place.

**II. MEASURES AND CHANGES AFFECTING IMPLEMENTATION OF ARTICLES 1-16 OF THE CONVENTION AGAINST TORTURE**

**Articles 1 and 2**

In the spirit of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention), article 28 of the Ukrainian Constitution states:

Everyone has the right to respect for his or her dignity. No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment.

This constitutional guarantee, which is inspired directly by article 2 of the Convention, is self-executing and an indispensable starting point for further amplification in other Ukrainian legislation.

Ukrainian law has built-in safeguards stipulating that criminal punishment may only be imposed in accordance with procedures recognized by law and pursuant to the judgement of a court. No accusation may be based on evidence obtained by unlawful means or assumptions (Constitution, art. 62; Criminal Code, art. 3).

Article 15 of the Code of Criminal Procedure states that justice in criminal cases is dispensed by the courts alone, which are independent and subject only to the law (Code of Criminal Procedure, art. 18).

Article 22 of the Criminal Code stipulates that the purpose of punishment shall not be to inflict physical suffering or degrade the individual.

In accordance with article 2, paragraph 3, of the Convention, the current Ukrainian Constitution contains safeguards against the issuance and execution of manifestly criminal orders or directives (art. 60). Furthermore, in accordance with article 2, paragraph 2, of the Convention, the Constitution stipulates that a number of human rights and freedoms, including those referred to above, cannot be restricted in any circumstances, even in wartime or during a state of emergency (art. 64).

Article 7 of the Judicature Act states that justice in Ukraine is administered in strict accordance with Ukrainian legislation. In instances provided for by international agreements, the Ukrainian courts must apply legislation in accordance with the agreements concerned (Act of 24 February 1994). In dispensing justice in criminal matters, judges and people’s assessors are independent and subject to the law alone.

Judges and people’s assessors hear criminal cases on the basis of the law in circumstances precluding extraneous influence (Code of Criminal Procedure, art. 18).

**Article 3**

Neither the law nor practice has changed as far as these provisions are concerned. Ukraine is in compliance with these articles.

**Article 4**

Torture is not currently defined in Ukrainian criminal law as a specific criminal offence. A bill to make it so has been introduced in the Verkhovna Rada.

Paragraph 2 of the Verkhovna Rada’s Decision No. 1261-XIV introducing the bill to amend and supplement the Criminal Code with a view to making torture a specific criminal offence punishable in the harshest terms states: «The Committee of the Verkhovna Rada on legislative support for law-enforcement activity and measures to deal with organized crime and corruption shall be instructed to finalize a bill to amend and supplement the Criminal Code with a view to making torture a specific criminal offence punishable in the harshest terms. Consideration shall be taken of the proposals and comments by Ukrainian people’s deputies and other entities possessing the right of legislative initiative, and the bill shall be referred to the Verkhovna Rada for second reading».

Article 22, paragraph 3, of the Code of Criminal Procedure explicitly prohibits attempts to obtain testimony from accused persons or other parties to proceedings by violence, threats or other unlawful means.

As noted in the previous (third) periodic report of Ukraine, torture and other cruel, inhuman or degrading treatment or punishment is broadly covered by articles 165, 166, and 167 of the Criminal Code (official misconduct).

A special provision in the Criminal Code (art. 175) states that, when conducting an initial inquiry or pre-trial investigation, officials who extract evidence under duress shall be held liable for their actions, and makes provision for straightforward or more serious instances of this offence. An interrogator who uses unlawful methods to extract evidence from an individual during an initial inquiry or pre-trial investigation shall be deprived of his liberty for up to three years. If this offence is compounded by the use of violence or bullying of the person undergoing interrogation, the offender shall be deprived of his liberty for between two and eight years.

Between 1996 and 1999 the Ministry of Internal Affairs received:

554 complaints of unlawful arrest, detention or search involving the use of physical force and discourtesy to members of the public (110 in 1996, 131 in 1997, 151 in 1998, 162 in 1999);


During the same period 864 internal affairs officers were convicted of official misconduct (243 in 1996, 237 in 1997, 204 in 1998, and 180 in 1999), of whom 568 were convicted of action ultra vires or abuse of official position.

Article 5

Neither the law nor practice has changed as far as these provisions are concerned. Ukraine is in compliance with this article.

Article 6

On 4 February 1994 the Verkhovna Rada adopted the Aliens (Legal Status) Act, article 22 of which states: «Aliens have the right to defend their personal, proprietary and other rights in the courts and other State bodies. Aliens shall enjoy the same procedural rights in legal proceedings as Ukrainian citizens». Article 33 of the Act states that if an international treaty to which Ukraine is a party lays down rules different from those of the extradition of lawbreakers. At the same time it should be noted that such treaties lay down rules different from those contained in the Act, the rules in the international treaty shall prevail.

The State obligations provided for under this article of the Convention as regards the custody of alleged torturers and the conduct of investigations (checks) with a view to subsequent extradition and criminal prosecution are dealt with in more detail by international treaties on the extradition of lawbreakers. At the same time it should be noted that such treaties lay down general rules for extradition; they do not focus on specific offences.

Article 7

The current criminal procedure law of Ukraine law provides a precise definition of the procedure and grounds for undertaking investigative actions such as commencement of criminal proceedings, short-term detention of suspects, pre-trial detention, interrogation, indictment, and property searches.

Under article 5 of the Code of Criminal Procedure, charges may be brought only on the basis of and in accordance with procedures recognized by law. An investigating officer may remand a person in custody as a preventive measure only if authorized to do so by a procurator. An investigator or body conducting an initial inquiry is also empowered to detain a person on suspicion of committing an offence. Correct procedure dictates that detention must be officially recorded as soon as a detainee is arrested. No one may be detained for longer than 72 hours. An investigating officer must immediately notify a procurator of every arrest, and in any event no later than 24 hours after the person has been taken into custody. The procurator then assesses whether detention is justified and has 48 hours to decide whether the detainee should be remanded in custody or released. A supervisory apparatus consisting of departmental, procuratorial and judicial elements ensures that the investigator or body conducting an initial inquiry (the militia) follows correct procedure when conducting pre-trial investigations.

Article 3 of the Criminal Code reflects the basic tenets of criminal law, namely the rule of law and the principle that a person shall be held responsible for his acts when there is evidence of his guilt. Paragraph 2 of the article states explicitly that «no one shall be judged guilty of an offence or subjected to criminal penalty other than on the basis of a court judgement and in accordance with the law», thereby satisfying the provisions of article 9 of the Covenant.

Unlawful deprivation of liberty is an offence under article 123 of the Criminal Code.

As soon as an individual is taken into custody, he shall be entitled to the services of a defence counsel. If he cannot afford the services of a lawyer, his right of defence shall be guaranteed by the State.

All arrested or detained persons shall be informed without delay of the reasons for their arrest or detention, apprised of their rights, and, as soon as they are taken into custody, given the opportunity to defend themselves in person or through legal assistance in the form of defence counsel. All detainees have the right to appeal their detention in a court of law at any time (Constitution, art. 29).

Suspects and accused persons have a variety of rights as enumerated in articles 3 and 43-1 of the Code of Criminal Procedure, specifically the right to know the nature of the charges against them, to agree or refuse to give testimony, to submit evidence, to have defence counsel and to communicate with their counsel before initial interrogation, to lodge petitions, and to file complaints regarding the actions or decisions of persons conducting an initial inquiry, investigators, procurators, judges or the courts.

Remand prisoners and their defence counsel and legal representatives may appeal the procuratorial decision remanding the prisoner in custody at any stage in the preliminary investigation until the case is forwarded to a procurator together with the bill of indictment (Code of Criminal Procedure, art. 236-3).

During the period 1996-1999 investigators of the internal affairs agencies arrested 337,569 suspects (82,096 in 1996, 83,376 in 1997, 86,303 in 1998, and 85,794 in 1999). Preventive measures excluding deprivation of liberty were taken against 88,342 people, or 26.2 per cent of the total number arrested (20,489 in 1996, 21,102 in 1997, 23,771 in 1998, and 22,980 in 1999). During the same period a total of 850,582 accused persons were committed for trial (209,037 in 1996, 213,306 in 1997, 212,441 in 1998, and 215,798 in 1999). Of these, only 249,227 or 29.3

In the event of dismissal of criminal charges owing to a lack of evidence that a crime has been committed or the impossibility of proving the suspect’s involvement in a crime, or if a court hands down a judgement of acquittal, the body conducting the initial inquiry, the investigator, the procurator or the court must apprise the individual of the procedure for seeking redress and must take the necessary steps to compensate the individual in respect of wrongful conviction, indictment, detention, enforcement of preventive measures, and unlawful prolongation of a fixed punishment after the entry into force of a criminal law nullifying the penal consequences of the original offence (Code of Criminal Procedure, art. 53-1).

Persons taken into custody in connection with criminal proceedings are detained in strict compliance with the relevant provisions of the Constitution, the Universal Declaration of Human Rights, and other international legal norms and standards concerning the treatment of prisoners. The Pre-Trial Detention Act of 30 June 1993 proscribes actions intended to cause physical or mental suffering or to degrade the individual.

In order to ensure full and strict compliance with the requirements of the Universal Declaration of Human Rights, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Ukrainian Constitution, the Militia Act, the Pre-Trial Detention Act, and other regulatory acts concerning such matters, the Ministry of Internal Affairs has taken a variety of organizational and practical steps to improve the conditions in which arrested or detained persons are held in special militia facilities. A programme to develop the temporary holding facilities run by the internal affairs agencies has been drawn up, which provides for measures to safeguard the rights and legitimate interests of persons detained in such facilities, including repayment of debts in respect of inmates’ food, provision of the required number of beds and exercise yards, ongoing supervision by medical services of the health and conditions of detention of special categories of prisoners, and the possibility for inmates to watch television and have access to libraries. A series of refresher courses for all categories of internal affairs personnel engaged in guarding or escorting detainees or monitoring the work of special militia facilities has been planned, developed and conducted over the course of the year.

To prevent the use of torture and other forms of violence in special militia facilities, Ministry of Internal Affairs departmental regulations stipulate that militia officers employed in such institutions are entitled to use physical force and special means of restraint against offenders only in exceptional circumstances. The list of circumstances is restrictive.

Whenever there is an incident involving improper treatment of persons detained in special militia facilities, senior officers of the municipal district authorities, administrative officials at the oblast level and the Ministry of Internal Affairs conduct a detailed review and, depending on the outcome, take appropriate measures including prosecution of guilty internal affairs officials.

The time limits for detention in special militia facilities are specified in article 11 of the Militia Act and article 263 of the Code of Administrative Offences ratified by the Decision of the Ukrainian Supreme Soviet of 7 December 1984, as amended and supplemented on 1 August 1997. Persons held for administrative offences may be kept in administrative detention for a maximum of three hours. If necessary, a person may be detained for up to 72 hours in order to establish his identity or clarify the circumstances of an offence provided that a procurator is notified in writing within 24 hours, or for up to 10 days when the offender has no identity papers, if so authorized by a procurator. Persons guilty of petty hooliganism; insulting or knowingly failing to comply with the directions or orders of a militia officer, volunteer militia officer or member of the armed forces; or openly exhorting others to defy the directions of a militia officer, may be detained until their case is heard by a judge or the chief officer (or deputy chief officer) of an internal affairs authority. The same stipulations apply to persons who fail to observe the procedure for organizing and holding meetings, rallies, marches and processions, who are in contempt of court, or who engage in unauthorized street trading.

Article 32 of the Code of Administrative Offences states that administrative detention is the appropriate sanction for certain varieties of administrative offence. Its use is restricted to exceptional circumstances, and the period of detention must not exceed 15 days. District (municipal) courts and judges are empowered to order the use of administrative detention.

Article 11 of the Militia Act empowers the militia to detain suspected vagrants in special units, on the authority of the procurator, for up to 30 days.

Article 6 of the Judicature Act establishes the right of Ukrainian citizens to a judicial remedy in respect of attacks on their honour, dignity, lives, health, personal liberty and property.

The Code of Criminal Procedure (Certain Articles concerning the Right of Defence of Suspects, Accused Persons and Defendants) (Amendment and Supplement) Act of 23 December 1993 introduced changes to article 44 of the Code, which stipulates that defence counsel may become involved in a case from the moment charges are preferred, or, if a suspect is detained or remanded in custody as a preventive measure, from the moment the official record of detention or the committal order is served, and in any event no later than 24 hours following the suspect’s arrest.

Under articles 4 and 5 of the Criminal Code, all persons (except individuals benefiting from diplomatic immunity) are liable under the Code if they have committed crimes in Ukrainian territory or have been brought before the Ukrainian courts, even if the crime of which they stand accused was committed outside Ukraine. In accordance with all currently applicable international treaties on judicial assistance in criminal matters, the Government pledges to institute criminal proceedings against Ukrainian nationals who have committed a crime abroad but who could not be extra-
Article 8 and 9

Ukraine decides on extradition issues and offers judicial assistance in accordance with the provisions of international treaties currently in force (see list in annex 2). The Office of the Procurator-General is the coordinating body for the implementation of bilateral and multilateral international treaties on judicial assistance in criminal matters. It also assists the law-enforcement authorities of countries with which Ukraine does not have treaty relations, on a so-called «good-will» basis.

Article 10

The rules covering interrogation of suspects and accused persons, arrest, and detention as a preventive measure during the pre-trial investigation are regulated by section 2 of the Code of Criminal Procedure (chaps. 12 and 13). Pre-trial detention procedure is also dealt with in the Pre-Trial Detention Act, the Corrective Labour Code, and other legislative acts.

Persons taken into custody in connection with criminal proceedings are detained in strict compliance with the relevant provisions of the Constitution, the Universal Declaration of Human Rights, and other international legal norms and standards concerning the treatment of prisoners. Article 1 of the Pre-Trial Detention Act proscribes actions intended to cause physical or mental suffering or to degrade the individual.

Article 5 of the Ukrainian Security Service Act of 25 March 1992 defines the activities of the Ukrainian Security Service in relation to human rights. In performing its functions, the Service must uphold human rights and freedoms. Security agencies and their personnel must respect the dignity of the individual and treat people humanely. In exceptional circumstances, certain personal rights and freedoms may be temporarily restricted, in the manner and within the limits laid down in the Ukrainian Constitution and laws, with a view to preventing and detecting crimes against the State. Unlawful restrictions on legitimate human rights and freedoms are inadmissible and punishable under the law. If in the course of their duties the personnel of a security agency violate human rights or freedoms, the agency concerned must take steps to reinstate those rights or freedoms, compensate the moral and material injury suffered, and prosecute the guilty parties. The Ukrainian Security Service is required to furnish a written explanation to injured parties within one month, stating why their rights and freedoms were restricted. The injured parties have the right to lodge a complaint with the courts against unlawful actions by officials (employees) and agencies of the Ukrainian Security Service.

A special institute in Kiev and a similar college in Dnepropetrovsk provide occupational training for staff of the various agencies and institutions of the State Penal Correction Department. The Chernigov Law School is likewise affiliated to the Department.

Among the positive developments which have taken place in Ukraine since the consideration of the third report are:

(a) Replacement of capital punishment by life imprisonment. Under the Criminal, Criminal Procedure and Corrective Labour Codes (Amendment) Act of 22 February 2000, the death penalty has been replaced by life imprisonment. A new provision, article 25-2, has been introduced into the Criminal Code, which stipulates that particularly serious crimes are punishable by life imprisonment. The same sentence may also be imposed for offences specifically referred to in the Code if a court decides that deprivation of liberty for a fixed term is not appropriate. The Code further stipulates that offenders under 18 or over 65 years of age, or women who were pregnant at the time of the offence or at the time of sentencing, may not be sentenced to life imprisonment;

(b) Ban on State secrets containing information regarding breaches of human and civil rights and freedoms. The updated version of the State Secrets Act contained in the State Secrets (Amendment) Act of 21 September 1999 stipulates that information concerning breaches of human and civil rights and freedoms or unlawful actions by central and local authorities and officials may not be classified as State secrets. It follows that information of this nature may not be subject to blanket secrecy, nor may it be subject to reporting or publishing restrictions in the mass media. Moreover, no restrictions may be imposed on its divulgence or transmission to another State or an international organization (this refers to article 9 of the Convention);

(c) Legislative arrangements concerning the Commissioner for Human Rights under the jurisdiction of the Supreme Council (Verkhovna Rada). The Commissioner for Human Rights of the Supreme Council Act of 23 December 1997 states that the Commissioner for Human Rights (hereinafter, the Commissioner) exercises parliamentary supervision over observance of the constitutionally enshrined rights and freedoms of individuals and citizens and protects the rights of all persons in Ukrainian territory and within Ukrainian jurisdiction. The Commissioner performs his functions independently of other State bodies and officials. The Commissioner’s work supplements existing remedies for the protection of the constitutionally-enshrined rights and freedoms of individuals and citizens; he neither abrogates these remedies, nor does he review the competence of other State bodies to protect rights and freedoms or redress wrongs. Article 21 of this Act guarantees the protection of human rights in dealings with the Commissioner, i.e. everyone shall have unrestricted access to the Commissioner in accordance with the procedure provided for by current legislation. Persons deprived of their liberty may address written communications to the Commissioner or his representatives, in which case no restriction shall be placed on their right of correspondence. Communications by such persons must be forwarded to the Commissioner within 24

1 Available for consultation with the secretariat.
2 Available for consultation with the secretariat.
hours. Correspondence between the Commissioner or his representatives, and detainees, remand prisoners, persons in custody, prisoners in custodial institutions of a coercive or curative nature, or any other Ukrainian citizens, aliens or stateless persons irrespective of their whereabouts shall be exempted from censorship or checks. Persons in breach of this article are liable to prosecution under existing legislation (this refers to article 13 of the Convention).

(d) Presidential scrutiny of the legality of laws and regulations promulgated by the Ukrainian Security Service. A specially appointed official, the Presidential Commissioner on Monitoring the Work of the Ukrainian Security Service (hereinafter, the Commissioner), scrutinizes the work of the Ukrainian security services on an ongoing basis in accordance with article 32, paragraph 2, of the Ukrainian Security Service Act. According to the Regulations on continuous presidential scrutiny of the work of the Ukrainian Security Service ratified by Presidential Decree No. 1172 of 22 October 1998, the Commissioner’s principal functions are to ensure that the constitutional rights of citizens and the law are observed by police units of the Ukrainian Security Service, and to verify that regulations, orders, directives, instructions and guidelines issued by the Service are in compliance with the Constitution and Ukrainian legislation. Presidential Decree No. 767/99 of 29 June 1999 ratified a corresponding Regulation on the registration of legally binding acts of the Ukrainian Security Service pertaining to organized searches for suspects, counter-intelligence and police work. This Regulation stipulates that laws and regulations issued by the Ukrainian Security Service concerning the rights, liberties and legitimate interests of individuals and citizens must be registered by the Commissioner. He may refuse to register a law or regulation if it does not conform to the Constitution or law of Ukraine. An unregistered law or regulation is deemed to be invalid (this refers to article 11 of the Convention).

Legal training for prison officers in the spirit of the Convention

Staff at remand centres administered by the Ukrainian Security Service attend regular courses on various legislative acts concerning the rights, liberties and legitimate interests of the individual, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (this refers to article 10 of the Convention).

Also on the subject of article 10, paragraph 34 of the third periodic report refers to article 5 of the Ukrainian Security Service Act, which states that, in the exercise of its functions, the Service must uphold human rights and freedoms, and that unlawful restrictions on legitimate human rights and freedoms are inadmissible and punishable under the law. Those provisions remain in force.

Article 11

In accordance with the blueprint for reform of Ukraine’s internal affairs agencies approved by the Cabinet of Ministers on 24 April 1996, the penal correction system has been removed from the jurisdiction of the internal affairs apparatus. Likewise, in accordance with Cabinet Decision No. 1451 of 9 August 1999, the public security militia is no longer responsible for sobering up drunkards, a function that sits awkwardly with its other duties.

Owing to economic and social problems, some short-term detainees and remand prisoners have occasionally been held in custody for longer than the prescribed period. Cases of overcrowding have also been noted. This is because, in view of the overcrowding that exists in remand centres administered by the State Penal Correction Department, these units are unable to accommodate all the «special prisoners» from holding facilities who need to be housed in remand centres. Nevertheless, the Ministry of Internal Affairs is endeavouring to take all necessary steps to ensure that the period spent in custody by various categories of prisoners meets the defined standards.

Under the Act of 23 December 1993, articles 21 and 43 of the Code of Criminal Procedure have been updated as regards the right of defence of suspects, accused persons and defendants. Now, for the first time, article 21 stipulates that a person conducting an initial inquiry, an investigator, a procurator, a judge or a court must, before proceeding to interrogate a suspect, accused person or defendant, explain to him that he is entitled to defence counsel, and make an official record to that effect. Article 43-1 establishes the suspect’s right to a defence counsel, to meet his counsel before the initial interrogation, and to request procuratorial verification of the lawfulness of his detention. Moreover, an Act of 15 December 1992 made it possible to challenge the use of detention as a preventive measure in the courts and instituted judicial verification of the lawfulness of and grounds for detention.

Article 236-3 of the Code of Criminal Procedure states that a detainee, or his defence counsel or lawful representative, may lodge an appeal against a procuratorial detention order with the district (municipal) court in the vicinity of the procurator’s office concerned. Certain acts have been decriminalized, resulting in the repeal of 34 articles of the Criminal Code. These include articles 61 (sabotage), 64 (intent to organize and commit particularly serious crimes against the State and membership of an anti-Soviet organization), 65 (particularly dangerous crimes against the State to the detriment of another workers’ State), 74 (evasion of military service or taxes in wartime), 80-1 (failure to report crimes against the State), 80-2 (concealment of crimes against the State), and 92 (crimes against the State or the public property of other socialist States).

Pursuant to the Criminal Code, Code of Criminal Procedure and Code of Administrative Offences (Supplement and Amendment) Act and the Decision of the Supreme Council on the introduction and enforcement thereof dated 7 July 1992, persons sentenced under articles 85, 87-1, 87-2, 146, 147-1, 149, paragraph 1, 150, 151, 152, 154, paragraph 4, 151-1, 154-4, 156, 195, 195-1, 196, 197, 214 and 224-1 of the Criminal Code were released after their offences were decriminalized.
Sentences handed down in connection with articles 81, 82, 84, 86, 86-1, 149, paragraphs 2 and 4, 155-6, paragraphs 2 and 3, 168 and 215, paragraph 1, of the Criminal Code were adjusted to reflect the fact that the punishments prescribed thereunder had been mitigated.

The exposition of article 15 of the Criminal Code, which deals with self-defence, has been improved. The article also enshrines the universal right of self-defence.

A new provision, article 46-2, has been incorporated into the Criminal Code, which stipulates that deferred sentences shall be imposed on pregnant women and mothers of children under three. Another new provision (art. 480-3) has been added to the Code specifying the procedure for the enforcement and abrogation of deferred punishment for this category of women.
Article 4 of the Code of Criminal Procedure states: ‘Courts, procurators, investigators and bodies conducting an initial inquiry are required, within their respective spheres of competence, to initiate criminal proceedings when the indicia of a crime are discovered and to take all steps according to law to establish the facts of the case and administer punishment’.

Article 100, paragraph 2, of the Code of Criminal Procedure requires investigators and bodies conducting an initial inquiry to forward a copy of their decision to initiate criminal proceedings or, alternatively, to dismiss a case, to a procurator within 24 hours.

The Code of Criminal Procedure (Amendment) Act of 30 June 1993 specifies that an initial inquiry into a lesser crime must be conducted within 10 days of the perpetrator having been identified. In the case of more serious crimes, the initial inquiry must be conducted at least 10 days after proceedings have been set in motion. By an Act of 23 December 1993, a new paragraph was added to article 143 of the Code of Criminal Procedure specifying that defence counsel may be present during the interrogation of an accused person if the accused so desires, and in the circumstances specified in article 46, paragraph 3, of the Code, the presence of defence counsel is mandatory.

An additional provision has been incorporated into the Code of Criminal Procedure which states that it is possible to lodge an appeal in the courts against a refusal to initiate proceedings, the dismissal of a case, or a procuratorial detention order. The procedure for hearing such appeals has been established.

Under article 22 of the Pre-Trial Detention Act, the Procurator-General of Ukraine and his subordinate procurators ensure compliance with the law in pre-trial detention facilities. In exercising this function, procurators may visit places of detention and prisons at least once a month, where they are required to hold face-to-face meetings with convicted prisoners and prisoners awaiting trial. When they receive complaints about administrative actions and decisions, procurators must check the facts and, if the allegations are justified, take appropriate measures to deal with the problem.

Procuratorial decisions and directives on compliance with established legal procedure and conditions of detention or custody must be implemented by the administration of pre-trial detention facilities. Failure to implement legitimate procuratorial demands without good cause is an offence under the law (Procurator’s Office Act, art. 8).

The procuratorial system exercises its functions independently. State and government bodies, officials, the mass media, and voluntary or political organizations or movements and representatives thereof are not permitted to interfere in procuratorial supervision of compliance with the law or procuratorial investigation of actions exhibiting the indicia of a crime. The bringing to bear of any form of influence on a procuratorial officer with a view to obstructing the performance of his duties or procuring an unlawful decision is an offence according to law (Procurator’s Office Act, art. 7).

Statistics indicate that, in the course of 1999, procurators made visits to 4,149 Ministry of Internal Affairs holding facilities, remand prisons of the Ukrainian Security Service, corrective-labour colonies and psychiatric hospitals under rigorous and strong surveillance regimes (compared with 3,780 such visits in 1998).

Last year procuratorial checks revealed a total of 5,507 assorted breaches of the law at confinement facilities (as against 4,626 breaches in 1998). As a result of their findings, procurators issued 1,435 instructions to rectify breaches of the law (compared with 1,230 in 1998); 455 protests against unlawful acts and decisions (381 in 1998); and 1,719 orders and directives on measures to deal with irregularities of various kinds (as against 1,512 in 1998). Disciplinary proceedings were set in motion against 1,942 staff members at confinement facilities (compared with 1,642 in 1998), and criminal proceedings were brought against 19 (15 in 1998).

Unfortunately, the official statistics cannot be broken down into separate categories of irregularities brought to light at confinement facilities. Thus, on the basis of these data, it is impossible to tell whether the irregularities were breaches of the Convention, and if they were, of what article. Even criminal prosecutions of staff members do not imply that they have committed acts of torture. Procuratorial checks also reveal cases of staff passing drugs to convicted prisoners, receiving bribes from them, and other offences.

In addition to special procuratorial supervision of compliance with the law in this area, as stipulated by article 55 of the Constitution, the rights and freedoms of individuals and citizens are protected by the courts. The same article states that everyone has the right to go to law to challenge the decisions, actions or omissions of the central and local authorities, officials and public servants.

The Parties to Criminal Proceedings (Security) Act makes provision for the use of means of protection during investigations and trials with respect to crimes involving torture.

Everyone has the right of recourse to the Commissioner for Human Rights of the Verkhovna Rada for the protection of his or her rights.

Following the exhaustion of domestic legal remedies, everyone has the right of recourse to the relevant international judicial institutions or relevant bodies of international organizations of which Ukraine is a member, or in which it participates, for the protection of his or her rights and freedoms.
quiry, an investigator, a procurator or a court to compensate citizens for injuries which result from unlawful actions on their part.

A supplementary provision, article 93-1, was added to the Code of Criminal Procedure on 22 April 1993; it concerns reimbursement of the costs of in-patient treatment for victims of crime. Under the Injury Compensation Act, which deals specifically with injuries to citizens resulting from unlawful actions by agencies conducting an initial inquiry or pre-trial investigation, the procuratorial system or the courts, Ukrainian citizens are entitled to claim compensation. Compensation is payable in full irrespective of the culpability of the official, agency conducting the initial inquiry or pre-trial investigation, procurator’s office or court involved.

As regards rehabilitation, the individual concerned must apply to the procurator’s office or court that issued the most recent judicial decision. If the individual disagrees with a court ruling or decision, he or she may contest it in a higher court by way of cassation.

Article 56 of the Constitution stipulates that everyone has the right to compensation at the expense of the State or local authorities for material or moral injury caused by the unlawful decisions, actions or omissions of central or local authorities and their officials or employees in the performance of their duties.

The procedure for payment of compensation to citizens in connection with the unlawful actions of agencies conducting an initial inquiry or pre-trial investigation, a procurator’s office or a court, in addition to the grounds for compensation and the sum involved, are all dealt with in special Act No. 266/94-BP of 1 December 1994. This Act stipulates that compensation shall be payable in respect of the following types of injury:

(a) Wrongful conviction, indictment, arrest or detention, unlawful search, seizure or impounding of property in the course of a criminal investigation or judicial proceedings, unlawful dismissal from employment and other defects of procedure which prejudice a citizen’s rights;

(b) Unlawful use of administrative detention or attachment of earnings, unlawful confiscation of property, or unlawful imposition of a fine;

(c) Unlawful police investigation.

In the circumstances referred to in article 14, paragraph 1, of the Convention, compensation is payable in full irrespective of the culpability of the official, agency conducting the initial inquiry or pre-trial investigation, procurator’s office or court involved.

Under the Ukrainian Criminal Code, it is an offence to arrest, detain or compel a person to appear before the investigating authorities or the courts knowing such a step to be unlawful (art. 173). It is also an offence to initiate criminal proceedings against a person known to be innocent (art. 174) or for a judge to hand down a knowingly wrongful judgement, decision or ruling (art. 176).

A rticle 15

Neither the law nor practice has changed as far as these provisions are concerned.

A rticle 16

Acts of torture or cruel, inhuman or degrading treatment or punishment are emphatically prohibited throughout Ukrainian territory. Domestic law makes due provision for the prosecution of persons who commit unlawful acts of this nature.

K G ANALYSIS HOW THE UN CONVENTION AGAINST TORTURE IS OBSERVED IN UKRAINE

Article 1-2: NATIONAL LEGISLATION MAKES TORTURE POSSIBLE

Art. 29 of the Constitution sets forth the standards of detention and arrest concordant with the requirements of relevant international treaties: grounds of keeping a person in custody as a preventive measure should be checked out with a competent court within 72 hours, and unless a detainee receives the well-grounded court warrant, within this term he or she must be released immediately. Moreover, everyone arrested or detained should be promptly informed on the cause of his or her arrest or detention, told his or her rights and given opportunity to defend personally or through a legal assistant. However, Sec. 13 of Additional Articles of the Constitution states that the former rules of arrest, detention and keeping in custody of suspects were to remain under provisions in force for five years. These provisions do violate human rights and make possible practising torture and degrading treatment.

Changing the criminal procedural laws essentially restricted these possibilities. On 8 February the Supreme Rada of Ukraine adopted the Law «On changes to be introduced into the Criminal Procedural Code (CPC) concerning the legal grounds, procedure and terms of keeping in captivity of persons suspected or accused of committing crimes».

During 24 hours after the moment of the detainment the militia authorities must hand to a court a motivated document on the application of the preventive measures to the person suspected or accused of committing a crime. The court has the duty, during 72 hours after the moment of the detainment, to take a motivated decision on the preventive measures; the consideration of the case must be carried out in the presence of a prosecutor or an investigation officer, the suspect and his advocate. According to the new Law, arrest is an exceptional measure. If, according to the operating CPC, the arrest is made, if there are sufficient grounds that, being at large, the suspect can escape from the investigation and court or prevent to find the truth in the case, then, according to the newly adopted law, the sufficient proofs must be gathered for the arrest that, being at large, the suspect can escape from the investigation and court or prevent to find the truth in the case. The suspect is freed from the arrest, if he agrees to fulfil the needed conditions required by other preventive measures. This norm may not be applied to persons, who are suspected or accused of committing a grave crime or of committing a
crime in an organised criminal group. In addition, the maximum term of preliminary incarceration is halved.

Unfortunately, the President vetoed this law, and in the final from of the law on introducing changes in the Ukrainian CPC, adopted on 21 June 2001, the opportunities of applying arrest as a preventive measure and of cruel treatment are constrained to a lesser degree. The term of being under captivity during the preliminary investigation remained as before – up to 18 months. Any preventive measures are still applied if there are sufficient grounds to believe that being at large, the suspect, accused, defendant or convicted can dodge the investigation, court or executing court decisions, to impede finding the truth in the case, or to continue his/her criminal activities. If the organ of inquiry or the investigating officer believe that there are sufficient grounds for incarcerating, then the investigating officer, with the prosecutor’s agreement, hands the proposition to the court. A prosecutor has the right to hand a similar proposition. Deciding this question, the prosecutor must familiarise with all the documents needed for the detention, check the legality of obtaining the proofs and their sufficiency for the accusation. The court must consider the proposition within 72 hours since the moment of detention. If, for selecting a preventive measure, it is needed to additionally study some data on the detained person, then the judge has the right to prolong the detention up to 10 days, and up to 15 days on the request of the suspect (accused). The accusation must be presented not later than in 10 days since the moment of applying the preventive measure. A detained person may complaint to the appeal court the court decision on selecting the preventive measure within three days since the day of the decision. The claim must be directed by the establishment administration not later than one day after the moment of its handing.

Thus, during three days before taking the decision about putting under custody and especially during the first day after the detention the suspect is «worked over» by the organ of inquiry. As it is seen from numerous examples given in the second volume of the present edition, this «work» often leads to the loss of health and, sometimes, of life.

An advocate could prevent torture and cruel treatment. Yet, advocate’s presence on the stage of inquiry and preliminary investigation is obligatory only in cases envisaged by law (Article 45 of the CPC): in cases, where minors are involved – since the moment of acknowledgement of the minor as a suspect or since declaring the accusation; in cases connected with crimes committed by deaf, mute, blind and other persons, who cannot realise their right for defence – since the moment of detention or since declaring the accusation; in cases about the application of coercive reformation measures – from the first interrogation of the minor or from the moment of his placement to reception-distributing centre; in cases about the application of coercive medical measures – from the moment of finding mental disorder of the detainee; when the sanction of the article, according to which the crime is qualified, envisages the incarceration for life. An advocate may be present at the interrogations of the suspect (accused) with the permission of the inquiry (investigation) officer. We have much evidence that very often on the stage of inquiry advocate is hindered not only from his presence at interrogations, but even from his meetings with the client.

For example, the press release of the Crimean advocates collegium reads: «Since February of this year militia organs in the Crimea began mass operative and investigation activities aimed at several criminal gangs and individual criminals. This campaign is accompanied with multiple violations of citizens’ rights for defence and advocates’ professional rights». Chairman of the collegium V. Zubarev cited examples, when suspects were beaten with rubber clubs, suffocated by plastic bags and underwent other torture in militia precincts. Yet, G. Moskal, the head of the Crimean militia, said, being asked to comment the advocates’ release, that «an advocate is a person, who calls white what is black for money».

«Such unbridled struggle with crime practically always turns into the struggle against advocates», said Ludmila Lubina. In practice for all their failures the militia blames advocates. That is why the advocates are prevented to fulfill their duties: the illegal searches are conducted, people are framed by putting false exhibits, in contrast to the existing laws, advocate are allowed to meet with their clients only after obtaining special one-time permissions issued by investigating officers. Cases are known where chiefs of precincts on purpose ordered their subordinates to violate laws and not to admit advocate to their clients. The militiamen openly and shamelessly confess to advocates that they violate the law obeying oral orders of their chiefs. Such cynicism must be inadmissible in law-enforcing organs.»

(Moskovskoe zerkalo, No. 13, March 1998)

In our opinion, an effective measure against torture could be a legislative prohibition to conduct interrogation of the detained and accused without an advocate.

As before, some legal norms are operating, which, in our opinion, contradict international norms and are evidently repressive. So, Art. 11, Sec. 5 of Law on Militia allows militia to detain and keep in custody in special detention blocks «the persons, who have been warranted to preventive detention up to 10 days by a competent preliminary investigation body, prosecutor or court». That is a citizen may be detained without bringing any charges up to 10 days, and suspects in vagrancy – even up to 30 days, if prosecutor authorises.

As we have noticed above, the terms of keeping under custody during preliminary investigation have not been diminished, as recommended by the Committee against torture (see item 22 of the document «Conclusions and recommendations of the Committee against torture, Ukraine» CAT/C/XVIII/CRP.1/Add.4). If the investigation cannot be completed within two months and there are no grounds for the change or cancellation of the preventive measure, then the term may be prolonged: up to 4 months with the agreement of a prosecutor and a judge of the court that took the decision about the preventive measure; up to 9 months according to the presentation agreed with a deputy of the General Prosecutor.
of Ukraine, the prosecutor of the Autonomous Republic of the Crimea, the prosecutor of the oblast, cities of Kyiv, Sevastopol or the same prosecutor in cases of grave and especially grave crimes, a judge of the appeal court; up to 18 months according to the presentation agreed with the General Prosecutor, his deputies or the same prosecutor in cases of grave and especially grave crimes, a judge of the Supreme Court of Ukraine. In every case, where the complete investigation is impossible in the given term, the case may be, with the agreement of the prosecutor, directed to the court in the part of the proved accusation, while the remaining part of the case is sent to the common investigation and is completed in the standard order. The time, when the accused and his advocate get familiar with the document of the criminal case after the completion of the investigation is not included into the total term of keeping under custody (Art. 156 of the CPC). As before, no limit is established for the total time of keeping under custody during preliminary investigation, familiarising with the case document and trial. And if one takes into account the ordinary practice of directing cases for the additional investigation (approximately each tenth case is directed for the additional investigation), then it becomes obvious that all these norms taken together enables the authorities to keep suspects under custody for a very long time. The conditions of upkeep in preliminary prisons are cruel and inhumane as such. It is not infrequent when innocent people are kept in preliminary prisons for years on end, since there no grounds to plead them guilty and judges do not risk to acquit them or, at least, to change the preventive measure.

There are some substantial drawbacks in the Law on Preventive Detention, because several its provisions do violate international standards of human rights:

a) the Law in question never mentions benefit of the doubt, even implicitly, i.e. no distinction is made among suspects, the accused and convicted offenders. Art. 9 on the rights of detainees makes it clear that restrictive regulations for the accused (who are not found guilty yet) hardly differ from those for the convicted offenders. How should we explain cash limitations for buying food up to size of one minimal salary, when these sums are the same for adults, children and women with kids?

b) Art. 8 prevents housing together adults and juveniles, although prosecutor may authorise putting a juvenile in one cell with two adults accused for less grave crimes for the first time. This is obvious violation of children rights.

c) Art. 15 on punishments of the detained states nothing about relevant appellation procedure, but secure punishments without delay. It makes everyone, who is not found guilty yet, fully dependent on law enforcement personnel. This article provides, inter alia, such punishment as putting into a punishment block, that is in itself very controversial for those, who are not convicted yet.

Art. 3. PROHIBITION TO EXTRADITE PERSONS TO THE COUNTRIES THAT APPLY TORTURE

Art. 26 of the Constitution guarantees to «aliens andapatrids, who are legal residents of Ukraine, the equal rights with natives». By July 1, 2001 1161 refugees lived in Ukraine from 47 countries, among them were 872 minors (16-year-old or younger). Most of these people are refugees from the areas of military conflicts like Afghanistan (54% from the total number of refugees), Upper Karabakh, Ossetia, Chechnya, etc. It is worth mentioning that legal and illegal immigration is large-scale. The number of officially registered migrants is about five times larger than the number of refugees.

Before 1999 the KG was unaware of deportations from Ukraine to the countries, where citizens might be tortured. On the contrary, it is Ukraine where emigrants from the CIS countries are seeking asylum from extradition to their own countries. However, in March 1999 some people were extradited to the country, where they practice torture. Three Uzbeks, who stayed in Kyiv, were arrested without any warrant, they were refused to have legal defence, and they were handed to the security service of Uzbekistan without any court procedure. The Ukrainian authorities referred to the fact that the detained were accused of the attempts at the life of Uzbekistan President I. Karimov, as well as to the obligations of Ukraine according to the Minks Convention. All the tree declared at the trial that they had been cruelly tortured and forced to give false evidence. Nonetheless, they were condemned to the prison terms from 8 to 15 years for insulting the President and anti-constitutional plot.

Art. 4. REQUIREMENT TO QUALIFY TORTURE AS OFFENCE AND TO LEAVE IT NOT UNPUNISHED

The Constitution of Ukraine was adopted on June 28, 1996, and Art. 28 bans torture, cruel, inhuman or degrading treatment or punishment. Yet, these terms had not been defined in the Ukrainian legislation: the Ukrainian authorities considered that the introduction of such corpus delicti to the Ukrainian Criminal Code was unreasonable. Similar offences were added to the definition of abuse or misuse of power aggagrated with violence, use of weapons or inflicting painful suffering, degrading human dignity and intimidation of victims» (Art. 166, Sec. 2 of Criminal Code, 1960), as well as coerced confessions «aggagrated with violence or intimidation of the interrogated» (Art. 175, Sec. 2). These offences were defined as grave ones in accordance with Art. 7-1 of Criminal Code, 1960.

It was only in 2001 when the special article qualifying torture as a crime was introduced into the new Criminal Code that came into effect on 1 September 2001. Article 127 of the Criminal Code reads:

1. Torture, that is a purposeful infliction of extreme pain or physical or moral suffering by way of beating, tormenting or other violent actions with the purpose to enforce a victim or another person to commit actions against their will, - are punished by incarceration for the term from three to five years.

2. The same actions committed repeatedly or, with the collusion, by group of persons, - are punished by incarceration for the term from five to ten years.

On the other hand, Ukraine participates in the International pact on civil and political rights and in the first
facultative protocol to the pact, as well as in the UNO Convention against torture, and, according to Article 9 of the Constitution, the operating international agreements make a part of national legislation. This norm is also mentioned in the Law «On international agreements of Ukraine», Article 17 of which points out the higher priority of an international agreement over the corresponding norm of the national legislation, if there is a collision between them. Thus, the definition of torture given in Article 1 of the UNO Convention against torture must be operable in Ukraine. It is easy to notice that the definition of torture given in Article 1 of the Convention essentially differs from that given in Article 127 of the CC. The CC defines the features of a torture without pointing out, in contrast to the Convention, that pain or suffering is inflicted by state officer or other person having official powers, or on their instigation, or when they know it and silently approve. In our opinion, the article on torture should be also included in Sec. XVII «Service crimes»; it should be indicated that for inflicting suffering, or assistance in it, or passivity in preventing it those persons are punished, who are state officers. We believe that absence of clear and strict legislative definitions makes difficult to classify certain acts of state officers as torture or cruel treatment. In the CC of 2001 articles similar to articles 166 and 175 of the CC of 1960 are retained: Article 365 «Misuse of power» and Article 373 «Coercion to giving evidence». According to part 2 of Article 365, «misuse of power, if it is accompanied with violence, use of weapons or tormenting and degrading actions, is punished with the incarceration for the term from 3 to 8 years with the prohibition to occupy certain positions or to indulge in certain activities for the term up to 3 years». In accordance with part 2 Article 373, coercion to giving evidence during an interrogation by was of illegal actions on behalf of the person conducting inquiry or preliminary investigation, accompanied with application of violence or humiliation of the interrogated, is also punished with the incarceration for the term from 3 to 8 years. These crimes are regarded as grave, is the condemned got the term longer than 5 years, and as middle-grave, if the term is less than 5 years.

Unfortunately, alleged offenders often evade a punishment, and even worse, their acts are considered to be normal.

We think the following violations of the Convention against torture are system atic and large-scale:
- cruel, inhumane treatment of suspects under inquiry and preliminary investigation;
- conditions in detention, blocks, preliminary investigation cells and in prisons;
- so called «dedovshchina» in the army, i.e. torturing of younger soldiers by older servicemen.

In the appendix to the report (this is a rather thick book containing information in Russia and Ukrainian), we shall present data on 174 conflicts during inquiry or preliminary investigation in which, in our opinion, the actions of militiamen should be classified as torture, in 26 cases the torture resulted in the death of the suspects, and data on 27 conflicts, where the actions of militiamen may be classified as cruel and inhumane treatment. Judging by complaint of citizen about the actions of law-enforcing organs and judging by publications in mass media, the illegal methods of «getting» evidence are applied most often on the stage of inquiry, before the accusation is presented. Here are some typical examples.

1. Valentin Khilia was detained on the suspicion of theft. He was brutally beaten in Sikhovskoye militia precinct. Later it became clear that Khilia was innocent of the theft. At home Valentin told that he was beaten very cruelly: with fists, feet and other objects. He was handcuffed, a heavy weight was thrown on his chest. In four hours the militiamen broke him 11 ribs, damaged his lungs and stomach. Some days later the 49-year-old victim of the beating died in the intense care ward of the town hospital.

When the mother of the deceased sent the complaint to the Galitskiy prosecutor's office of Lviv, the officers of the precinct tried to defend themselves. The militiamen stated that Valentin got the traumas on his way home. Yet, nobody believed it.

Seven months passed, but the criminal case by Article 101 part 3 of the CC of Ukraine has not any progress. In the prosecutor's office the mother was said that it was impossible to state, who namely beat her son.

2. An extract from the speech of Nikolay Dryga, the chairman of the Council of judges of Ukraine, at the joint sitting of the presidium of the Supreme Court of Ukraine and the Council of judges:

«On 8 February 1998 officers of special battalion of road police of Simferopol stopped the car, which was driven by Roschenko, a deputy chairman of Zaliznychny district court of the town. Although he produced his judge's ID and explained the clauses of the law «On judge's status», he was forced to open the car, and the car was searched. Similar cases were repeated more than once, but the Ministry of Interior did not assess them principally.

On 22 December of the last year at 15:00 two officers of the road police squad «Kobra» stopped the car of the judge of one of district courts. Neither his ID nor his protests and explanations helped the judge. The militiamen declared that they obeyed not law, but the orders of the Ministry of Interior. Afterwards force was applied to the judge, his clothes were torn and militiamen tried to push him into their car. The same officers from «Kobra» squad on the same day attacked in the similar manner another judge of a district court of Kirovograd.»
What was done to him in the precinct is an object of guesses. In about one hour or a little more he was taken senseless to the district hospital, where he died at once.

The results of the forensic expertise were: died of shock, of inflicting grave body traumas and of overcooling.

A criminal case has been started according to Article 166 part 2.

Raisa Tkachuk, the Zhytomyr oblast.»

(«Kievskie vedomosti», 12 January 1999)

4. The public committee for protecting constitutional rights and freedoms of citizen held a press conference in Lugansk. The experience of the committee in contacts with citizen enables them to conclude that torture is everyday routine practice in militia. At least two factors are the reasons of torture: low professional level of investigating officers and corruption in law-enforcing organs.

The following facts about victims of violence were made public at the press conference:

A) Anatoliy Zhovtan, Lugansk, 19/51, 16 liniya St.

On 27 November 1998 was detained being suspected of the participation in the murder of Yu. Zaskalko and was sent to the detention block of the Leninskiy district militia precinct.

On 27 and 28 November he underwent inquiry actions. During the inquiry militiamen R. Ushchepkovskiy, O. Serbin and K. Kiyanskiy applied violence and degrading treatment: long-lasting beating, suspension in handcuffs in a tormenting position, suffocation with a gas mask, burning of intimate part body the body, penetration of a stick into anus, etc.

With numerous traumas, broken ribs and cerebral brain concussion A. Zhovtan spent 42 day in a hospital. A criminal case on a misuse of power was started against the militiamen. Now the case is in the Leninskiy district court. A typical feature of the case is that the investigating officer, in contrast to procedural laws (Article 147 of the CPC), did not suspended the militiamen from their duties, so they could influence the course and result of the investigation, intimating the victim and witnesses.

B) Sergey Lazarenko, Krasny Luch, 17/16 micro-district 3.

On 9 June 1999 Lazarenko was detained at his home by detective Vasilenko from the town precinct. He was suspected of the theft in a private flat on 4 March 1999.

In the detention block of the town precinct militiamen Vasilenko, Popeta, Vasitskiy and Slobodeniuk, applying violence, kept Lazarenko for 37 days on end.

As a grave criminal, he is still under arrest. All this time Shvachko, the town prosecutor, did not accept numerous complaints from Lazarenko and his mother; he refused to start the criminal case. Meanwhile, the militia-bruisers, who were not brought to responsibility or dismissed, systematically applied threats and moral pressure to the victim and his family to make them refuse from their attempts to bring the militiamen to responsibility. Lazarenko’s mother’s complaints to the oblast prosecutor’s office, to the oblast militia directorate, to the General Prosecutor, to the Minister of Interior and to the ombudsman were fruitless.

C) Taras Maslov, Krasny Luch, 10 Repin St.

24 July 1998 was detained in a street with his friend Maksim on a complaint (faked, as it turned out later) about an attempt to rape.

In the office of V. Kostiuk, the head of the crime investigation department, Taras and Maksim were third-degreed. In the evening of the same day they were released. It was Friday, the corresponding medical department was closed for the weekend, and Taras could not pass the medical expertise. On Saturday and Sunday Taras was at home and felt himself very badly. On Monday morning he died. All the attempts to draw the guilty to responsibility were unsuccessful. Town prosecutor Shvachko refused to start the criminal case because of «the absence of the event of crime» (!). The post-mortem of Maslov showed that there were numerous injuries, internal haemorrhage in intestines and in the cerebral brain shell.

D) Vladimir Vodolazov, Krasny Luch, 22/46, micro-district 2.

On 2 April he was arrested at home and brought to the town precinct. There in the office No. 16 he died during the interrogation. The forensic expert Ovchinnikov determined the reason of death as cardiac deficiency. When the body was taken from the mortuary Vodolazov’s relatives could not recognise it: all the body was black and blue, the flesh on hands was cut off to bones. There were numerous traces of brutal beating. Before the arrest he was healthy and never complained at his heart.

A criminal case has been started about the death. However, Vodolazov’s relatives cannot get any information about the course of the investigation and its results.

E) Dmitry Zinchenko, Krasny Luch.

Was arrested at home on 2 June 1999 as an accomplice of the theft. On 5 June 1999 he was beaten during the interrogation by militiaman Vasilenko. As the result the motor ambulance was called, but the militiamen prohibited doctors to examine the victim concerning the beating.

The expertise was carried out only on 20 June. For the second time Zinchenko was interrogated in the precinct on 11 August. Again he was tortured, this time with the participation of Kovbasa, a deputy of the precinct commander.

About all the above-mentioned facts more than 20 complaints were directed to various surveillance instances. The result is null.

(«Prava ludyny», December 1999)

5. On 24 November Yuri Zaskalko, the general manager of the enterprise «Ukrekologiya», was shot in the doorway of his house. At night of 26 November Anatoliy Zhovtan, who saw Zaskalko home, was taken by militia from his flat. Sergey Kurganskiy, an investigating officer of the Zhovtnye district prosecutor’s office, detained Zhovtan not in the capacity of a witness, but as suspected of the murder. On 27 November Zhovtan was beaten in the detention block by two militia-
men, while the third was observing the process and giving advice how to make him gain consciousness. On 28 November all the three took part in the beating.

«They tormented me as fascists... They put a gas mask on me, they beat me on the back, head, ribs. They throttled me. After taking off the gas mask they pressed my eyeballs, inserted fingers into my mouth and pulled out the tongue. Took by the ears and beat me against the wall as strong as they could, took off my pants and beat my buttocks with a rubber club... During three days of my staying in the detention block I was not fed at all. Instead of it, after each interrogation, they made me sign a document that I have no claims against the law-enforcing organs... I was released, at night I felt myself badly... In the morning I was examined by a forensic medicine commission and was hospitalised at once with the diagnosis «cerebral brain concussion, two broken ribs, prolapus of a kidney». Staying in the hospital I learned, who tormented me. They were Konstantin Kiyanskiy, Oleg Serbin and Roman Ushchevovskiy. I sent complaints to the ombudsperson, to the General Prosecutor, to the prosecutors of the oblast and town. In his response of 21 December 1998 S. Sorokin, the deputy prosecutor of the Lugansk oblast, informed that «the complaint directed to the General Prosecutor of Ukraine was considered by the prosecutor’s office of the Lugansk oblast and left without satisfaction, since there were no violations of criminal and procedural legislation in the course detention and release of A. Zhovtan». Yet, two days later V. Solodkiiy, the oblast prosecutor, promised that my complaint would be checked in the course of the preliminary investigation. No I am waiting, when the justice will be restored...»

(«Optional newspaper», No. 1, January 1999)

The three Lugansk militiamen were found guilty and condemned to three and a half years of strict regime incarceration each for the misuse of power (i.e. torture, in this case) applied to a detainee, who became an accidental witness of the murder of well-known Lugansk businessman Yu. Zaskalko.

Yet, all the three continue to work in militia instead of staying in a prison. The court decision, it seems, could not shake the belief of town militia chiefs that Lugansk militia... needs such strong and decisive people. Whereas, the prosecutor, as we have learned, was even surprised with the mildness of the verdict.

According to rumours, partly confirmed by militia representatives, one more criminal case is started against two of the trio.

(«Segodnia», No. 41, 3 March 2000)

All the accused were also condemned to money fines in the capacity of compensation of moral damage inflicted to victim A. Zhovtan. The compensation size is Hr 7000. Besides, they must pay more than Hr 1000 to the Lugansk oblast hospital, where the victim was treated.

The case was being considered for almost eighteen months.

A. Zhovtan, the victim of the militiamen was detained on 27 November 1998 as a suspect in a complicity in the murder of well-known businessman Yu. Zaskalko.

The accused were dismissed from law-enforcing organs only in the beginning of March. But they are still at large.

(«Kievskie vedomosti», 1 April 2000)

One and a half years ago «ZN» was the first newspaper, which risked to describe how law-enforcers of the Lugansk oblast «beat out» the evidence from a suspect, applying methods of the Spanish inquisition and of concentration camps. Now the tormentors have been condemned, but one cannot say yet that law has triumphed.

«The criminal actions caused body injuries of the middle degree in the form of cerebral brain concussion, closed trauma of the rib-case, closed fracture of the sixth right rib, contusion of lungs, contusion of cervical and lumbar vertebra, contusion of the sacral region, contusion and concussion of kidneys, cracks of anus, haematomas of the crotch, multiple bruises on the body, lower extremities, right hand, left helix, tongue and face».

Lugansk public committee of constitutional rights and freedoms of citizens informed that the court verdict was issued as early as on 14 January 2000. On 30 March the district court directed the order on executing the verdict, which came into effect. But even now, two months later, Ushchevovskiy and Serbin are still at large.

«This case vividly testifies that the situation in our law-enforcing organs becomes more and more criminal, and this endangers safety of the society. This threat has already generated fear and apathy in the society, it undermined the trust to the state power and deprives the country of its main resource of development – social activity of citizens».

(«Optional newspaper», No. 24, 17 June 2000)

The list of examples can be prolonged, and the examples speak for themselves. Here what is written by Grigoriy Ginzburg, an advocate, a deserved lawyer of Ukraine:

«... In any case, where the proofs are insufficient or absent at all, the law-enforcing organs begin with cooking an administrative arrest. Judges serve as accomplices in this matter. A judge permits the detention for as long time, as is needed for detectives...

I shall tell one instructive story. A young man resided in Olena Teliga street not far from the Shevchenkovskiy district precinct... Several months ago at 8 a.m....»
he was visited by two plain-clothed militiamen. Later he learned that three days before in the doorway of a neighbouring house a 45-year-old woman was robbed and raped, and he seemed to look alike the suspect. He was proposed to confess in this crime. He refused and was treated in the following way. He was handcuffed with the chain passing under his knees, then he was suspended on a crow-bar between two tables. They promised not to beat him, but said that they had 24 ways, remained from the times of Beria, to make him speak. He was tormented for a day and night, then he was moved to a cell, given of couple of hours to relax, and then repeated the torture. Neither a protocol of detention nor any other document was compiled, to say nothing about calling an advocate. After all the young man had to sign his confession in the above-mentioned crime.

At 5 p.m. next day he was brought to the court. The judge condemned him to seven days of arrest. Militiamen reported that he had just been detained being drunken. They added that they have already compiled the protocol. The judge, in fact putting not a single question to the detainee, gave him seven days of arrest. The arrested was taken away to the detention block and there he was «belaboured « as a suspect in rape and robbery. After seven days he was taken away from the detention block and the protocol was compiled that he was detained as a suspect in rape after these seven days. This story finished for the victim in a very grievous way. Now he is being treated in a stationery hospital, it is still being decided, whether he got middle or grave body injuries...

Now the transitive period stipulated by the Constitution is finishing. In a year judges, who, knowing excellently what is going on in militia, sign such arrest warrants, will decide all questions. On the other hand, when complaints appear against arbitrary actions of militiamen, courts and prosecutor’s offices reject them and refuse to start criminal cases against the law-protecting offenders. Thus, the judges and prosecutors cover the law-enforcers and trample the right for freedom. Under native conditions any deprivation of freedom is connected with terrific humiliation. Any advocate will confirm that this practice is quite common.»

«Zerkalo nedeli», No.18, 6 May 2000

It is next to impossible to manage law-enforcers to be punished. In the 202 cases described in the appendix the guilty were punished only in quite obvious and most scandalous situations, only 17 law-enforcers were incarcerated, practically all according to Article 166 of the CC «Misuse of power». Ombudsperson Nina Karpacheva stated that during 11 months of 2000 the Lviv oblast prosecutor’s office started 14 criminal cases concerning torturing of the detained. Yet, only seven such cases came to courts. On the other hand, 129 complaints against militiamen remained without response. Nina Karpacheva declared that the problem of torture is one of the most acute. The analysis of complaints addressed to the ombudsperson shows that the most abuses of human rights, connected with torture, happen during detention of citizens by law-enforcers and during investigation. N. Karpacheva asserts that that is a daily routine. According to her data, in 1998-1999 as many as 194 criminal cases were started in connection with misuse of power, applying violence and degrading treatment. 285 law-enforcers were brought to criminal responsibility after these cases. Approximately 200 cases on torture were started by the ombudsperson in 2000. The cases were started on torture that caused death in the towns of Antratisit, Krasny Lutch, Sukhodolsk of the Lugansk and the Sumy oblasts.

As «Zerkalo nedeli» (2 December 2000) writes, the truth about what real punishment threatens to those few militiamen, whose atrocities brought them to the dock, impresses not less than the facts of tormenting the unfortunate, who were caught to the claws of law-enforcers. Two militiamen, trying to extract the confession from the suspect, beat him, broke his ribs and, having put handcuffs on him, several times partly drowned him in a river. By the way, as it appeared later that the victim had no relation to the theft, which became the reason of the third-degree interrogation. The militiamen were brought to criminal responsibility. They got the term of three years each, but conditionally. And this is far from being a rare case. It is not difficult to conclude that under such conditions torture will be applied in future. One of the reasons of torturing, in N. Karpacheva’s opinion, is the practice of not admitting advocates at the early stages of the investigation. Another reason is that law-enforcers, in order to obtain «positive» results, try to unclose crimes applying illegal methods of investigation.

It should be noted that there exist facts of cruel treatment of refugees and migrants on the side of state officers. In 1999 the Directorate of the Supreme Commissar of the UNO in charge of refugees in Ukraine jointly with the Institute of sociology of the Ukrainian Academy Sciences carried out the study of interrelations of refugees and migrants with law-enforcing organs. 500 polled migrants consider misuse of power by militiamen to be the main cause of their problems. 36% of the respondents told that militia detains them practically every day. The question «When detained, how were you treated by militia?» was answered: «They spoke rudely with me» – 69.2%; «They extorted money from me» – 61.3%; «I was insulted» – 60.1%; «They took away my money and valuables» – 41.1%; «Applied force, beat» – 41.1%. More than 40 experts confirmed rudeness and abuse of the rights of foreigners by militia officers. The most frequent victims, who are groundlessly blaming for disorderly behaviour, are the blacks.

* * *

Why should we regard the jail conditions as torture? We base our statement on the conclusion of special co-reporter of the UNO Commission on Human Rights, Mr. Nigel S. Rodley, who was invited by the Russian Ministry of Foreign Affairs to visit Russia and analyse the fulfilment of the judicial reform and protection of human rights of the convicted offenders. Mr. Rodley wrote in «Conclusions and Recommendations» of his
In the appendix to this report we present numerous examples, which illustrate overcrowdness and hard upkeep conditions in detention blocks, preliminary prisons and prisons. Here are some typical examples.

1. «I write you from a «concentration camp» of strong regime, where I do my 10-year term for a grave crime.»

   Here all suffer for one. I practically signed my verdict, having written this letter. And not only my verdict, but that for the whole detachment. The warden will be angry with all. Anybody, who wrote a complaint, automatically becomes a malicious infringer of the regime, and his way is to a punishment block or even to strict regime colony. And the complaint will certainly be intercepted by the administration.

   The local surveillance prosecutor often drops here. Yet, instead of the truthful information on the real situation he obtains distorted information from specially appointed persons. He also obtains some valuable souvenirs made by convicts into the bargain, such as icons, candlesticks, caskets and alike. Having got all of this, he leaves our colony in a good mood and with the report convenient for our administration.

   The warden can beat one with a club even for the unfriendly look or a T-shirt put on under the prison jacket. No one of the administration would never be punished either for misuse of power or for extracting riches from the convicts.

   ... I am not sure whether you will print this letter. If you do not, I will continue to write to all instances, not only Ukrainian, but Russian and even to the Council of Europe, anywhere. I have already earned one third of what I observe.

   Our colony does not receive any magazines or newspapers... I pass you this message through a reliable man, who is released... If you need to call me, call me simply «Writer».

2. Recently the ombudsperson’s office obtained some information on tormenting women convicts. Women under investigation in the Dnepropetrovsk oblast are kept in preliminary prison No. 4 in the town of Krivoy Rog, if needed, the women are transported to the oblast centre. Ten years ago there was a rebellion of convict in the Dnepropetrovsk preliminary prison and, as a result, the women’s department was destroyed, that is why the women are kept in Krivoy Rog. So now they have to stand a 4-5 hour journey to the oblast centre in «Black Marias» or special railway carriages without water and conveniences.

   «More than 560 arrested women were transported from Krivoy to Dnepropetrovsk during five months of the current year», told ombudsperson Nina Karpacheva.

   «Mostly they are transported in special railway carriages with grated windows. The journey lasts about 6 hours, some detainees must do the journey 14-15 times. In Dnepropetrovsk they are kept in detention blocks, which contradicts to the CPC and the Ukrainian Law «On preliminary incarceration». This torture is applied to women, whose guilt is not proved yet, and one must take into consideration that there are the ill, pregnant and minors among them».

   N. Karpacheva turned to Vladimir Levochkin, the head of the State penitentiary department of Ukraine, with the demand to stop the transportation of women suspects.

   V. Levochkin ensured that some needed finances were given for the arrangement of women cells in Dnepropetrovsk preliminary prison. Not later than 20 August the life of 15 thousand of Dnepropetrovsk women-detainees, who are suspected in committing crimes, will become easier. The exhausting journeys from Krivoy Rog to Dnepropetrovsk shall be stopped this month.

   According to Aleksandr Ptashinskiy, the first deputy of the penitentiary department, preliminary prisons of Ukraine have the planned capacity of 32 thousand inmates, although actually they contain about 50 thousand. The number of the arrested grows faster than the number of places for them. Investigation and court organs arrest people, although they might confine to make the writ of non-leaving the place, or to punish them without incarceration. The number of those, who got the term of one year or less, is 3384 nowadays, up to two years – 13643.

   Recently one of the three suspected of the theft of 15-meter long cable died in Zaporozhye. He was kept in the preliminary prison for about one year without any court decision.

   «His two accomplices are still staying in the prison. This case was considered at the collegium of the oblast prosecutor’s office as a scandalous example of court red tape,» told Aleksandr Lomachenkov, the senior prosecutor of the Zaporozhye oblast prosecutor’s office.

   Because of the usual red tape some citizens stay in a preliminary prison even longer than the further verdict orders, or the verdict prolonged is fit this preliminary term. The victims of such too long preliminary incarceration have no chances to get any compensation later.

   In the Zaporozhye oblast two preliminary prisons are overcrowded by 500 inmates. Two months have passed after the amnesty, but more than 200 persons are still tormented in overcrowded cells. The oblast prosecutor’s office handed document about the acceleration of the process to the head of the oblast court.

   As Aleksandr Ptashinskiy told, last year they managed to release about 16 thousand of less dangerous criminals, many of whom could be punished by fines or coercive labour.
3. Valentina Polshakova, a deputy head of the general manager of Nikolayev aluminous plant, was arrested on 11 October 1994 being suspected of obtaining a bribe. The case is being investigated. By now 6 of 14 episodes of the accusation have collapsed. She spent 27 months in the preliminary prison and was released on bail of Hr 40 thousand.

«There was no prison for women in Nikolayev. Recently the building for convicted to death was reconstructed for women. There I stayed for 18 months. The cell of about 14 square meters contains 10-12 women. The number of berths is insufficient, so some sleep on the floor. It is forbidden to ventilate the cell, a walk is permitted for one hour a day. Water is brought to the cell in basins. In winter frost reigns in the cell. Lice, syphilis, cholera, the AIDS – all this was in my cell. There was no hot water, we had shower once in 10 days.

What is happening now in women prisons is horrible. There are no isolation cells for newcomers – they are sent immediately to the common cells. And in a couple of months it becomes clear that the newcomer has the AIDS!

The women, whose guilt is not proved, stay together with tempered jailbirds: drug addicts, tramps, alcoholics, felicicides and mere killers. The overcrowdness serves another purposes: to force women to give evidence needed for the investigation. The pressing is so strong that a normal woman cannot stay it. The reveille is at 6 a.m., the retreat is at 10 p.m. After the retreat one risks to be severely punished for reading, talking or laughing: as a punishment they will take you to the prison yard and keep there, under any weather, as long as the guard wants. Another trouble is searches, 2-3 times a week and quite unexpectedly to find something prohibited. A special team searches berths overturning everything and dumping it into one heap... But the most humiliating is the personal search. One is stripped completely, then they fumble in the clothes searching every seam... Some people say that now women are not beaten in our prisons. I disagree. They do beat us, with clubs, on the upper arms and below the waist. They beat for «violating the regime», younger women much more frequently. The younger ones are full of energy, they want to move, sing and giggle, and all this is regime violations.

A woman cannot stand this: full isolation, moral and psychological terror, absurd accusations, which no one even tries to prove. Women often went crazy, die. All this was happening before my eyes, I remember scores of names and facts. It is impossible to leave a prison and remain a normal person. People leave prison as moral or physical cripples. I passed three medical commissions before they directed me to a cardiologist. And they did it with convoy. It means that you must ware handcuffs even under a dropper, there are always guards in a medical ward.

I think that Ukrainian laws should be written by people, who already stayed in Ukrainian prisons. They know what is what».

(«Vasha sudba», No. 40(121), 4 October 2001)

4. Viktor Dupak, the main agronomist of the sovkhoz «Pervomayskiy» of the Vasylevskiy district of the Zaporozyh oblast:

«I had to stay in one cell with murderers and recidi-vists. The conditions were unbearable: a bucket instead of a toilet basin, ventilation did not work, columns of bedbugs. One wakes up in red high-boat - traces of bedbug bites... One third of inmates sleeps, other two thirds stand, since there is no place to lie». During long eight months spent in the preliminary prison Dupak learned, how special militia troops «perfect their combat agility» on convicts.

(«Vseukrainskie vedomosti», No. 39, February 1998)

In the last example the statement about the training of special militia troops on convict attracts a special attention. Ukrainian human rights protection organisations and Amnesty International wrote about this commenting the third periodic report of Ukraine four years ago, and the representative of Ukraine, deputy Minister of justice Lada Pavlikovskaya, neglected it, affirming that no training had been ever done on convicts. Nonetheless, information on such training now and then appeared in Ukrainian mass media in 1997-2001 (see, e.g. extracts from publications in newspapers «Tiurma i volia», «Zerkalo nedeli», bulletin «Prava ludyny» appended to the report). The Kharkiv Group for human rights protection received several complaints from convicts about such facts. Administrations of penitentiaries hotly deny it, and we have no opportunity to check. Nonetheless, it is suspicious that similar cases are described by people unknown to each other from different penitentiaries in different regions of Ukraine.

Ombudsperson Nina Karpacheva visited preliminary prisons and detention blocks in Kyiv and several regions and found out many violations. According to her, almost everywhere inmates of detention blocks do not get three hot meals a day for state expenses, as it should be by resolution No. 336 of the Cabinet of Ministers of 1992 and order No. 485 of the Ministry of Interior of the same year. Besides, the terms of keeping people in district preliminary are violated: instead of three hours stipulated by law, they spend there more than a day and sometimes up to three days.

Let us return to the problem of overcrowdness of preliminary prisons and penitentiaries of strong regime. The problem remains very acute, though new preliminary prisons are built and new cells are introduced. In mid 1994 we got the information from the Ministry of Interior that 38900 inmates were held in 30 Ukrainian penitentiaries on January 30, 1994; their capacity was only 11300, so overcrowding amounted to 344%, and the total number of the incarcerated in the country was 161 thousand. Aleksandr Ptasinskiiy, the first deputy of the penitentiary department, cited statistical data: on February 1, 1997 43700 persons were held in 30 Ukrainian penitentiaries. He pointed out that 3 penitentiary for 1800 detainees had been built for the past five years («Den», March 26, 1997). The data given by Ivan Shtanko, the then head of the penitentiary department, are the following on 1 January 2000: 222.3 thousand prisoners were kept in 180 penitentiary establishments of the department, among them 171 thousand stayed in 128 colonies, 3.3
thousand minors stayed in 11 colonies for minors, 46.2 thousand persons – in 32 preliminary prisons and 1.8 thousand – in anti-alcoholic correction colonies (magazine «Aspekt», No. 1, 2000). Since the number of convicts in 1991-97 increased by 11% per year, 35 penitentiaries with the capacity of 25.5 thousand were started in 1993-99. Since 1997 the number of the condemned have somewhat diminished, and the number of the condemned to imprisonment remained on the same level: in 1997 – condemned 257790, among them condemned to incarceration – 85396, that is 33.13%; in 1998 – condemned 232598, among them condemned to incarceration – 86347, that is 37.16%; in 1999 – condemned 222239, among them condemned to incarceration – 83399; in 2000 – condemned 230903, among them condemned to incarceration – 82869, that is 35.89%. Nonetheless, now the input to penitentiaries much exceeds the output, in spite of the annual amnesties, in which about 35 thousand convicts are released on the average. Thus, for example, in 1999 83,399 people were incarcerated, while 60.2 thousand were released. The proportion of those, whose terms were three years and less was about 59% during all these years. These data enable us to come to a shocking conclusion. The number of places in preliminary prisons and the number of inmates, one may come to a shocking conclusion. The data on the capacity of preliminary prisons grows annually by 10-15%, actually the capacity remains the same. It can be explained by the fact that the administrations of preliminary prisons must keep convicts independently of the prison capacity, and they are financed according to the number of berths. Since the number of inmates grows steadily, the administrations are forced to increase the number of berths in their reports, otherwise they will be unable to feed the contingent. The more so the financing is scanty and irregular. That is, in our opinion, one of the main reasons of the terrific upkeep conditions.

We have just received the data from the penitentiary department, according to which the budget expenditures for penitentiary system were planned as follows: Hr 227.5 million for 1998, 216.6 million for 1999, 204.2 million for 2000 and 156.3 million for the first half of 2001. In fact, it was received 180.6 million, 203.2 million, 204.2 million and 154.7 million, respectively. This means that the average cost of the upkeep of one imprisoned was in 1998 – Hr 70 per month, in 1999 – 78, in 2000 – 77 and in 2001 – 115. If one takes into account the number of the prison personnel, according to the law, may not be less than one third of the total number of convicts, then it will be obvious that the financing of the penitentiary system is catastrophically insufficient. The violations of the rights of both the personnel and the convicts is caused by the budget, when only about 35% of the necessities are planned, and only 12% of the needed sum is planned for nutrition. Actually it led to expending 8-12 kopecks per day for nutrition and 4-7 per day for medical aid in 1998-2000. Convicts cannot earn their upkeep: finding jobs for them is the big headache of administrations. So, in 1998 about 67 thousand convicts did not work every month, that is 51.5% of the total number of the incarcerated, who had to work. The average wages of the imprisoned were Hr 1.01 per day.

Such scanty financing implies the high morbidity and mortality rate in preliminary prisons and prisons. According to the penitentiary department data, in 1998 2108 condemned and suspected died (about 10 per one thousand of the incarcerated), in 1999 – 2969 (about 13.4), in 2000 – 2222 (about 10) and during the first half of 2001 – 865 (about 7.8), among them 725, 1133, 715 and 300 convicts, respectively, died of the TB. The mortality rate in the country as a whole was 14 people per one thousand in these years. Thus, the mortality rate in penitentiaries is very high, if one takes into account that the prison population consists mostly of young people: almost half of the imprisoned are up to 30 years old.

The above-given data testify that many problems of the Ukrainian penitentiary system would be solved, if the punishments without incarceration were applied more often and the financing was sufficient. Up to better days the penitentiary department suffers from the existing repressive policy. It should be noted that the final separation of this agency from the Ministry of Interior in 1999 positively effected the existing practices. Penitentiaries became more open, the department administration co-operates with NGOs more actively. The NGOs render consultative and humanitarian aid to convicts, arrange concerts, create local amateur theatres. Schools for teaching those incarcerated, who did not get the secondary education, are re-opened. Another essential change is the de-militarization of the personnel. It changed very much, instead of soldiers the civilians working by contracts came to penitentiaries. Yet, the achieved level of openness is very far from the desirable one, if one compares our penitentiary system with those in other post-totalitarian countries (Poland, Estonia, etc).

* * *

The problem of cruel treatment of younger soldiers by older ones, so called «dedovshchina», remains acute. According to Vasily Kravchenko, a former head of the Main Directorate of military prosecutor’s offices, 287 cases of dedovshchina were registered in 1999. 143 cases of beating servicemen by their officers were fixed. 800 servicemen suffered from dedovshchina, among
The principal position of the Ministry of Defence, which the improvement of the situation is due, first of all, to the commandment of the Ministry of Defence does not co-operates with human rights protection organisations, in particular, with regional branches of the Union of soldiers’ mothers. Consultants in charge of legal and social protection of servicemen have appeared in oblast recruiting commissions; almost everywhere this position was given to activists of the Union of soldiers’ mothers. Representatives of public organisations may now visit military units, meet with soldiers and their commanders, conduct polls, etc. To put it briefly, the commandment of the Ministry of Defence does not hush-hush the problems, but is open for their discussion. One could only dream about such a level of openness in the penitentiary system.

The military commandment tries to investigate the cases of dedovshchina that became known. In the appendix to the report we present the data about 40 conflicts connected with dedovshchina, in 12 cases such conflicts resulted in deaths. Only three cases say nothing about the punishment of the guilty, in other 37 cases the crimes were investigated and 57 people were duly condemned.

The UNO committee against torture recommended to familiarise the population through mass media with the main clauses of the Convention against torture and to organise the study of rules and norms of the Convention by the personnel penitentiaries and of organs of inquiry and investigation (see item 21 of the document «Conclusions and recommendations of the Committee against torture. Ukraine», CAT/C/XVIII/CRP.1/Add.4). We believe that this recommendation was not fulfilled. Unfortunately, the separate course of human rights is not introduced in law schools and schools of the Ministry of Interior and the Ukrainian Security Service (USS). In particular the Convention against torture remains unknown to those who must know it. Problems of human rights are mentioned within courses of international right, constitutional right and the theory of state and right, but the number of hours devoted to human rights fully depends on the teacher.

Partly this gap is filled by Ukrainian human rights protecting NGOs. So, the Centre of information and documentation of the Council of Europe in Ukraine and the Kharkiv Group for human rights protection, with the agreement of the Ministry of Interior and the USS, held 14 seminars for officers of regional directorates of interior, the USS and prosecutor’s offices. At this seminars they told about international tools of preventing torture and cruel treatment and handed to each participant a set of printed matter, in particular, the book «Against torture», including the most important documents on this topic and the Convention against torture. The Sevastopol human rights protection group, International society of human rights (Ukrainian section) and the Donetsk «Memorial» also supported the project. In the course of these seminars it became clear that the personnel of the establishments, where torture and cruel treatment can be applied, is completely ignorant of the international standards. It is obvious that the efforts of NGOs only are quite insufficient.

Unfortunately, the situation, when the rules are determined by the inaccessible service instructions, is still preserved. After the introduction of the unique register of all normative acts in the Ministry of Justice the appearance of new, not registered instructions is illegal. Yet, firstly, the number of old instructions, which were classified secret as early as in the Soviet times, are still operable, and secondly, the access to the new acts may be also restricted, if the information containing in them is a state or other secret stipulated by law (Article 30 of the Law «On information»).

Changes in law «On state secrets», adopted by the Supreme Rada in September 1999, substantially broadened the quantity of secret information. New positions appeared in the sphere of state security and law-enforcement: in particular, the information «on the results of checks carried out by a prosecutor according to laws in order of surveillance over the observation of laws and on the contents of inquiries, preliminary investigations and court procedures in the questions of this sphere» may be related to state secrets. We believe that making secret the results of prosecutor’s surveillance over the observation of laws is inadmissible, the more so that the quantity of information that may be related to state secrets is very large. Except such classified positions as «secret», «top secret» and «of especially importance», which exist according to the law «On state secrets», bureaucrats generously provide document with the labels «for service use only», not for publishing», «service secret». This practice is illegal, since such labels are not defined by law. It is even difficult to determine which information is related to these categories of limited access, because there is no special open list of information items of this kind. There exist no instructions registered by the Ministry of Justice, which define the order of work with documents labelled «not for publishing» and «service secret». Such instruction exists only for documents classified as «for service use only», which contain «confidential information that is the state property». This category is also not defined by any law. From the instruction one can conclude that appointing the label «for service use only» completely depends on a whim of a bureaucrat. The instruction does not say, which kind of information must be regarded as confidential. We tried to get the answer to this question by tries and errors, requesting various state agencies for information. In particular, wanting to learn how ef-
efficent is the prosecutor’s surveillance over the observation of laws in the organs of inquiry and investigation, we have recently sent the requests to prosecutor’s office in different regions of the country. The prosecutor’s office of Sevastopol, answering the question on the number of complaints against the illegal actions of militiamen, the quantity of satisfied complaint and the number of militia officers condemned for illegal actions, answered that this information is confidential, and its distribution is forbidden, according to Section V of the Law «On state statistics». All other requests are still unanswered. We think that making such data secret is both illegal and immoral, and certainly it violates Article 11 of the Convention against torture.

The procedure of the detention of persons, who are suspected of crimes, is regulated not by the CPC, but by the document «Regulations on the procedure of brief detention of persons, who are suspected of crimes», which, as far as we know, was not published.

It should be noted that the Ukrainian Law «On security service» does not envisage the direct right for detaining and keeping in custody of the suspected and accused. At the same time item 5 of Article 25 grants the security services the right to «have preliminary prisons for keeping persons taken under captivity or detained by the organs of state security of Ukraine» without any references to laws regulating detaining and keeping in custody. It may lead and, judging by the notorious case of Mozilla, does lead to the violations of norms, sometimes quite scandalous. As it became known in the course of the trial, keeping under custody in preliminary prisons of the security agencies is regulated by service instructions.

The laws «On organisational and legal ground of the struggle with organised crime» and «On the struggle with corruption» also do not contain any reference norms to the law «On militia» or other related laws. To sum up, no documents describe the procedure of detention and arrest by the departments of the directorate of the struggle with organised crime. It is logical to suppose that here service instructions also determine the procedures.

Upon the whole, one can conclude that the legislation regulating the access to agencies’ acts is very contradictory and needs substantial changes.

Art. 12, 13. ON IN SUFFICIENT RESPONSE TO COMPLAINTS

As we have remarked above, fast and unbiased investigation of the complaint against torture in militia are practically never carried out. It is convincingly confirmed by the numerous examples appended to the report. We have written that during 11 months of 2000 the Lviv oblast prosecutor’s office started 14 criminal cases concerning torturing of the detained, but only seven such cases came to courts. On the other hand, 129 complaints against the illegal actions of militiamen remained without response. Here are similar data for the Kharkiv oblast: during the first seven months of 2001 the oblast militia directorate received more than 500 complaints against actions of militia. The oblast prosecutor’s office has stored 21 criminal case against militiamen. Three former militia officers have already been condemned («Rabochaya gazeta», No. 107, 31 July 2001). Thus the overwhelming majority of the complaints is not responded. It is confirmed also by the comparison of two kinds of data. The first kind are the data on the number of the complaints against illegal detentions, arrests and searches with applying physical violence and rude treatment of citizens. These data are presented in item 44 of the fourth periodic reports of Ukraine: 554 complaints in 1996-1999. The data of second kind are the data made public by Nikolay Anufriev, a deputy Minister of Interior; each week the Ministry of Interior receives about 40 complaints against violations of laws by its personnel. As N. Anufriev asserts, 2045 militiamen were brought to responsibility for violations of laws during inquiry, investigation and application of administrative laws in 1997, in 1998 – 1921. Criminal cases were started concerning 10 facts, two militia officers were condemned («Molod Ukrainy», No. 55, 25 May 1999).

It is noteworthy that in the infrequent cases, when the complaints are satisfied, the cases are investigated and the guilty militiamen are punished, it is very difficult to manage to make the court decision executed. Most frequently the decision prescribes the conditional punishment and the prohibition to work in militia in future. It is next to impossible to make the condemned militiamen to be fired, this is confirmed by the numerous examples given in the appendix. The KG came across the situation, when the two militia officers, who beat a minor and were condemned conditionally for it, continued to occupy their positions long after the verdict came into effect and were dismissed only after the personal interference of the head of the oblast militia directorate, to whom we turned for help.

Art. 14. ON COMPENSATION FOR VICTIMS OF TORTURE

Since, as it has been shown above, the investigation of complaints against torture is very inefficient, the decisions on compensation of material and moral damage are taken by courts exceedingly seldom, and one must demonstrate great doggedness to achieve such a decision. Although the Ukrainian legislation contains the norms about the recompensing the damage caused by illegal actions of law-enforcing organs, and in the end of 1994 a special law on the procedure of recompensing the damage caused by illegal actions of the organs of inquiry, preliminary investigation and court was adopted, the mechanism of paying the compensation was absent for a long time. It should be noted that, according to this law, the right for the compensation appeared only in the following cases: a) court verdict of «not guilty» verdict; b) closure of the criminal case because of the absence the event of the crime or corpus delicti, or in case, where there are no proofs of the participation of the accused in the crime; c) refusal to start a criminal case or closure of the criminal case due to the reasons indicated in item b); closure of the case on administrative offence. Thus, this law does not stipulate recompensing of material and moral damage to a victim, when the victim was found guilty of a crime or an administrative offence.

As late as in summer 1999 the Cabinet of Ministers adopted the resolution, stipulating the unconditional
charge-off from the bank accounts of law-enforcing organs, if there is a corresponding court decision that came into effect. Simultaneously, the Ministry of Finances marked out Hr 637.5 thousand for the compensations. This sum is infinitesimal even for the small number of court decisions on recompensing the damage. As the newspaper «Ukraina moloda» (No. 136, 28 July 2000) wrote, the reserve fund of the Cabinet of Ministers gave additional Hr 485.8 thousand for paying the compensations for 1999. Thus, in order to get the compensation one must be patient for several years.

The adopted procedure of recompensing looks rather queer. In fact, the court must take a decision to pay from the money intended for the upkeep of courts. The expenses for recompensing the damage caused by the illegal actions of law-enforcing organs must be paid from a separate article of the budget. It caused the constitutional statement of the Supreme Court on the concordance to the Constitution of Article 32 of the law on the state budget of Ukraine for 2000 and Article 25 of the law on the state budget of Ukraine for 2001, which stipulate recompensing the damage in such a absurd manner. On 3 October the Constitutional Court of Ukraine acknowledged these articles as not constitutional and so cancelled them. This decision is just, but paying the compensations is suspended.

**Art.15. USING ILLEGALLY OBTAINED CONFESSIONS AS EVIDENCE**

Article 62 of the Ukrainian Constitution reads «any accusation may not be based on evidence obtained in illegal way, as well as on suppositions. All the doubts concerning the guilt of a suspect must be interpreted in his/her favour». Yet, Ukrainian courts endorse the accusation mush more frequently and weakly react on the facts of applying illegal methods by militia and investigation organs.

Vitaliy Boyko, the chairman of the Supreme Court of Ukraine, tells about it in the following way:

«... There are numerous cases, where accusation is based on the confession of the suspect or accused, obtained, as a rule, in the very beginning of the investigation. Later, at the trial, the suspect refuses from the confession...

Yes, sometimes local Femida’s representatives manage to establish truth. But as a rule district courts assist their district precincts: they declare that they the same think – they fight with crime. As to the trivial cases, where judges disregard bruises all over the fact of an accused, are quite common.

One must also recollect the decision, which investigating officers like so much, about application to the suspect such preventive measure as keeping in custody. The main reason (and it is well grounded) that a judge will never dare to acquit the person, who had already fed bedbugs in a preliminary prison for several months. If even all the proofs in the case are the «confessions» of the suspect...»

(Kievskie vedomosti, 24 January 2001)

At best the judge will direct the case for the additional investigation, issuing the resolution about viola-
CONCLUSIONS AND RECOMMENDATIONS

Law enforcement practices show that violations of the UNO Convention against torture are abundant and unpunished. Some ill-trained officials use unlawful methods of treatment, and the probability of getting them punished or redressing material and moral damage is very low. Illegally obtained confessions are used as the best evidence at trials.

We think that the conditions in penitentiaries and so-called «dedovshchina» in the army are permanent and large-scale violations of the Convention against torture. It should also be pointed out that dedovshchina is decreasing in the recent years thanks to the principal position of the Ministry of Defence, which actively struggles with this phenomena actively co-operating with NGOs.

We should point out the common facts of cruel treatment of refugees and migrants from the Caucasian countries by state officials.

Existing objective reasons of deteriorating the conditions in penitentiaries (lack of finances for prisoners’ maintenance and personnel wages because of the economic crisis) cannot excuse the current situation, as well as issues concerning crime growth and need to suppress it.

It is a most positive fact that NGOs are trying to monitor and examine facts of cruel treatment, to protect persons, whose individual rights have been violated by state officials, and to support law enforcement agencies in promoting information about human rights. Some 10 years ago such discourse was impossible. However, the public efforts only are not sufficient to change the situation radically.

In order to correct the situation it is necessary to change the operating laws and law-applying practices:

- to make sure that every detainee is informed promptly of his or her rights, especially the right to complain against cruel treatment;
- to ensure that relatives of a detainee shall be informed of his or her detention immediately;
- to establish legally that anyone may not be interrogated at any stage of investigation without an advocate;
- to impose strict legal limitations on preventive detention;
- to enact stern legal limitations on the terms of preliminary detention and trial, in particular, to diminish the maximum term of preliminary detention from 18 to 9 months and to limit the total time of keeping under custody during the investigation and trial down to two years, after which the incarceration must be exchanged for another preventive measure not connected with imprisonment;
- to adopt a law, which would prohibit judges to use as evidence the confessions obtained under duress;
- to adopt the new Criminal-Procedural Code, which would guarantee the right for defence at all stages of a criminal investigation and efficient court control over inquiry and investigation;
- to ensure to everyone, who claims to have been tortured, the opportunity to get impartial medical inspection within a reasonable time;
- to carry on independent legal expertise of internal rules in the field of inquiry, preliminary investigation and punishment;
- to improve the court practices, making common alternative punishments;
- to adopt the new Correctional Labour Code will be in compliance with the international standards for penitentiary establishments;
- to remove the label «for service use only» from the information about complaints against illegal actions of law-enforcing organs and about the results of consideration of such complaint, to publish such data every half a year;
- to create a curriculum of professional training for law enforcement and military officers that should include a course on human rights with especial stress on documents against torture and cruel treatment;
- to familiarise law enforcement personnel and military officers with the provisions of the UNO Convention against torture;
- to ensure legal grounds for court and civic monitoring of the activities of law-enforcing organs.

CONCLUSIONS AND RECOMMENDATIONS


CAT/C/XXVII/CONCL.2.

CONCLUDING OBSERVATIONS/COMMENTS

COMMITTEE AGAINST TORTURE

Twenty-seventh session

12 – 23 November 2001

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Conclusions and Recommendations of the Committee against Torture

Ukraine

1. The Committee considered the fourth periodic report of Ukraine (CAT/C/55/Add.1) at its 488th, 491st and 499th meetings (CAT/C/SR.488, 491and 499), and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the punctual submission of the fourth periodic report of Ukraine. It notes that the report was not submitted in total conformity with the Committee’s guidelines for the preparation of State periodic reports. The Committee also notes that the report mainly addresses legal provisions and lacks detailed information with respect to some articles of the Convention as well as information on the follow-up to the recommendations it made after the examination of
the third periodic report. However, the Committee wishes to express its appreciation for the extensive and informative oral answers given by the delegation of the State party during the consideration of the report.

B. Positive aspects

3. The Committee notes with appreciation:

The ongoing efforts by the State party to reform its legislation, including the adoption of a new Criminal Code, which contains an article qualifying torture as a specific crime, the establishment of a new Constitutional Court, the enactment of new legislation relating to the protection of human rights and the adoption of a new Law on Immigration.

That although Ukraine is not a party to the 1951 Convention Relating to the Status of Refugees, nor to its Protocol, it has adopted a new Law on Refugees in June 2001 that adheres, inter alia, to that Convention’s definition of «Refugee». The Committee also welcomes the adoption of a new Citizenship Law of January 2001, which enables formerly deported persons to return to Ukraine and obtain Ukrainian citizenship.

The removal from the «State Secret Act» of offences concerning breaches of human rights.

The abolition of the death penalty.

The information included in the report that, by Act of 5 November 1998, Ukraine acknowledged the Committee's jurisdiction, as provided for by articles 21 and 22 of the Convention.

The establishment of the Office of the Commissioner for Human Rights (Ombudsman), charged with the protection of human rights in Ukraine, who can visit and have full access to all places where persons are deprived of liberty.

The assurances given by the Head of delegation that the reports of the three visits of the European Committee for the Prevention of Torture, which took place in 1998, 1999 and 2000 respectively will be published.

C. Subjects of concern

4. The Committee expresses its concern about the following:

The numerous instances indicating that torture is still being regularly practiced in the State party and that, according to the Commissioner for Human Rights, 30% of prisoners are victims of torture.

The forced deportation of four Uzbek nationals, members of the Uzbek Opposition, who were at high risk of being subjected to torture and whose case was subject of an urgent appeal by the UN Special Reporter on Torture.

That judges are sitting in the newly formed «co-ordination committees on crime fighting» jointly with the representatives of the Ministry of Interior, a situation which is contrary to the principle of the separation of powers and may affect the independence of the Judiciary.

The numerous cases of convictions based on confessions and the criterion for promotion of investigators said to include the number of solved crimes, which can lead to torture and ill-treatment of detainees or suspects to force them to «confess».

Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such acts and to prosecute and punish those responsible.
The information received by the Committee that relatives and lawyers are informed about the detention only after the arrested person has been transferred from police custody to a pre-trial detention facility, a process that usually takes not less than two weeks. The Committee is also concerned about the lack of clear legal provisions about the exact time when a detained person could exercise his right to a defence counsel, medical examination and to inform a family member of his detention.

The duration of pre-trial detention, which can last for up to 18 months according to the law but that in practice can be extended for up to three years, the administrative detention for up to 15 days and the detention of «vagrants» for up to 30 days.

The long-term prison sentences for non-violent dissemination of ideas and information.

The reported threats and harassment including ill-treatment of independent journalists and others who have raised allegations of abuses by officials.

The overcrowding and lack of access to basic hygiene facilities and adequate medical care, as well as the high incidence of tuberculosis in prisons and pre-trial detention centres.

The lack of adequate training of police and prison personnel on their duties under the law and on the rights of detainees.

Despite certain progress made, the practice of bullying and hazing (dedovshchina) of young conscript soldiers is still widely practised in the armed forces.

D. Recommendations

5. The Committee recommends that the State party:

Take effective measures to prevent acts of torture and ill-treatment in its territory, in view of the persistent reports that torture is still regularly practiced.

Deposit with UN-Secretary-General its declaration accepting the Committee's competence with respect to articles 21 and 22 of the Convention and the removal of its reservation in regard to article 20.

That the principle enshrined in article 3 not to expel, return or extradite a person where he/she might be subject to torture be strictly observed by the competent authorities in the State party.

Establish its jurisdiction over offences of torture even if the offender is not a national of the State party, but is present in any territory under its jurisdiction, and in the case it does not extradite him.

Clarify and reconcile the sometimes contradictory provisions pertaining to the timing when a detained person has the right to a defence counsel and to ensure that this right is exercised from the moment of arrest.

Ensure that there is a legal prohibition to carry out interrogation of detainees without the presence of a defence counsel of his choice.

Take appropriate measures to ensure the independence of the Judiciary and counsel for defense as well as the objectivity of the Procuracy in the performance of their duties in conformity with international standards.

Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained through torture.

Take effective steps to establish a fully independent complaints mechanism to ensure prompt, independent and full investigations into allegations of torture, including numerous detailed allegations received from various non-governmental organizations, both national and international.

Take effective measures to improve conditions in prisons and pre-trial detention centres, including space, facilities and sanitation, and establish a system of inspection of prisons and detention centres by independent monitors, whose findings should be published.

Shorten the current 72-hour pre-trial detention period during which detainees may be held in isolation cells prior to being brought before a judge.

 Expedite the process of training of law enforcement and medical personnel, as to their duties to respect the rights and dignity of persons deprived of liberty.

Take effective measures to prevent and punish trafficking of women and other forms of violence against women.

Adopt a more effective system to end the practice of bullying and hazing (dedovshchina) in the armed forces, through training and education, and prosecute and punish offenders.

Establish a procedure for providing redress for victims of torture, including fair and adequate compensation.

Continue the program against Tuberculosis in prisons and pre-trial detention centers.

Widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country.

People perish of torture in Ukraine too

On 14 June in the informational center IREX ProMedia representatives of the Ukrainian Association of Amnesty International (UAAI) held a press conference, where they told that they started a worldwide campaign against torture. In particular, the place of the press conference was declared as a «torture-free zone».

These days The UAAI celebrates its seventh anniversary. The first spots of the movement appeared in Ukraine in 1991, and nowadays 41 UAAI organizations operate in the Ukrainian territory. Amnesty International, as a worldwide movement for human rights protection and releasing prisoners of consciousness, by way of attracting the attention of the world public, was founded by Peter Benenson, an English journalist and advocate. After the publication of his article «The forgotten captives» in 1961 the idea to organize a worldwide campaign for human rights protection was supported in the majority of countries.

During its existence Amnesty International (AI) actively worked on cases of 43 thousand prisoners of consciousness, 40 thousand of them were released. The top priority spheres of the AI activities are the protection of women’s and children’s rights, release of all prisoners of consciousness, just trials for all political prisoners, abolishment of the death penalty, struggle with political assassinations and torture. The AI includes a network of professionals – groups of medics, lawyers and other people, who use their knowledge for human rights protection.
In the course of the round table held these days UAAI head Svetlana Kharitonova informed that since 1997 the AI received reports on the application of torture by state officers from more than 150 countries. Torture is widely spread and often applied in more than 70 countries. In more than 80 countries such practices result in the death of the victims. According to Ms. Kharitonova, Ukraine is one of these countries. She added that torture was applied both to the suspects of crimes and to political prisoners, socially unprotected people and dissidents, men and women, adults and children.

Information from 150 countries confirms that the most frequent kind of torture and degrading treatment is beating by police or militia. Some victims die after it. Frequently applied kinds of torture are as follows: rape and sexual molesting and electroshock (in 40 countries), suspending the victim (in 40 countries), beating on the soles (in 30 countries), strangling (in 30 countries), long-lasting isolation (in 50 countries).

The most active torturers are: in 140 countries – policemen and militiamen, in 40 countries – the military, in 20 countries – so called «death squads». During last three years torture and degrading treatment of children was observed in more than 50 countries. The captive children risk much to be raped or sexually molested both by policemen and their cellmates. Since 1997 the AI received messages from 50 countries on all continents about rapes and sexual use of women by state officials.

During the round table its participants also learned that during the current year the Ukrainian ombudsman got several hundreds of complaints concerning torture by militiamen and prison guards.

«Torture or cruel, inhumane or degrading treatment shall not be applied to anybody», reads Article 5 of the Universal Declaration on human rights. The AI appeals to governments of all countries to publicly condemn torture; state officers of all ranks shall declare «torture-free zone» within the space controlled by them. The AI also appeals to citizens, who experienced torture and degrading treatment, to turn to the European court of human rights.

«These two influential human rights protection organization must convince Ukraine that it is necessary to achieve greater progress in the area of human rights protection», «Ukraine must regard these two events as a well-timed opportunity to grant a higher political priority to the problems of human rights», declares Amnesty International.

Amnesty International is worried by the fact that persons kept under custody are often imposed to torture and cruel treatment on the side of law-enforcing officers. Victims of torture and cruel treatment suffer from injuries that sometimes cause death.

The detained and arrested are often refused to use legal aid from the very beginning and to inform their relatives about the detention or arrest.

«It seems doubtful that Ukraine actually fulfills her obligations about human rights protection, Amnesty International states. «When the complaints are handed and the criminal cases are started against law-enforcers about applying torture and degrading treatment by them, the investigations are conducted very slowly, they are often careless and fruitless. Many of such investigations are obviously biased».

Cruel treatment is a routine in the Ukrainian army, where servicemen abuse other servicemen’s rights, and it is regarded as a form of punishment. This is known by officers, and sometimes is applied by them to the younger soldiers (dedovshchina). As a result, young boys are beaten, tormented and sometimes commit suicides or are plainly killed.

During recent years the freedom of expression in Ukraine has been more and more restrained. Editors of independent newspapers and TV companies complain that the authorities often conduct revisions formally connected with tax paying, with checks of sanitary conditions and fire safety. In fact, the obvious purpose of all these checks is to impede their activities.

«The freedom of the press is sometimes obstructed with open intimidation. Journalists are attacked by strangers, which often ends in death. The circumstances of many of such attacks remain obscure. The guilty are caught and brought to responsibility very infrequently», Amnesty International declares.

Last year the suspicions that the state may be responsible for the «disappearance» of journalist Georgiy Gongadze and the obvious incapability of the state authorities to conduct a fast and unbiased investigation of this case caused the alarm inside the country and abroad.

Along with Gongadze’s case Amnesty International also mentions the murder of Igor Aleksandrov from the Donetsk oblast, attacks at Vinnitsa journalist Anatoliy Zhuchinski, Cherkassy journalist Valentine Vasylchenko, editor of a Lugansk independent newspaper Mykola Severin and Lutsk journalist Oleg Velichko. The guilty have not be found in all these cases.

Amnesty International notes that the Parliamentary Assembly of the Council of Europe repeatedly appealed to Ukraine asking to stop the practice of criminal accusations of journalists. The new Criminal Code is expected to introduce changes to this practice. Yet, the
conviction of editor Oleg Liashko, which occurred at the eve of the adoption of the new code, testifies how the laws were used to restrict the freedom of speech.

«Ukraine must guarantee the complete fulfillment of various international obligations on human rights and thus to demonstrate the final break with the past», Amnesty International states.

Amnesty International hopes that the international attention to these problems will encourage the improvement of the situation. «The experience shows that Ukraine positively reacts at the international pressure. Recently Ukraine has abolished the death penalty thus showing the respect to her obligations. And we certainly hope that the Ukrainian government will comprehend that in the course of coming closer to Europe the attention to human rights becomes a necessary condition for the completion of this process. The Ukrainian government must apply many efforts to improve the state with human rights protection in the country», Amnesty International adds.

«Prava Ludyny», October, 2001

Ukraine got a bad mark in the UNO Human Rights Committee

Yevgeniy Zakharov, Kharkiv

As to me such an assessment is easy to obtain analyzing the conclusions of the UNO Human Rights Committee on the fifth periodical report of Ukraine (the fourth report was presented in 1995) about the actions to realize the obligations in compliance with the International UNO Covenant on civil and political rights. It is not so important that respectable Western institutions stress again that the system of using torture is preserved in our country for obtaining evidence, and that it is very difficult to punish the law-enforcers, who commit this crime, that journalists are harassed and intimidated, that the rights of the institutions of alternative service are very restricted, etc. It is essential that the Human Rights Committee initiated the procedure of oversight that demands from a state to report periodically on the measures as to the implementation of the recommendations given by the Committee. In a year Ukraine must inform about the practical measures of solving problems of domestic violence against women, police harassment of the Roma minority and dark-skinned aliens, racism and anti-Semitic acts and publications, establishing the effective system of control over the treatment of detainees, decreasing the permissible length of detention as a «temporary preventive measure» (up to 72 hours), providing the freedom of movement and choice of residence provided in article 12 of the Covenant and then effective protection against discrimination. Implementation of this procedure gives sufficient grounds to affirm that the state of human rights in Ukraine is disturbing.

In what follows we present the conclusions of the Committee on the fifth periodical report. One of the last paragraphs attracts attention: about publicizing the concluding observations of the Committee and the obligation of disseminating the periodical report among the public. The latter demand is very actual: our country is unfortu-
CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE: UKRAINE.
05/11/2001. CCPR/CO/33/UKR.
CONCLUDING OBSERVATIONS/COMMENTS)

HUMAN RIGHTS COMMITTEE
Seventy-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES under article 40 of the Covenant
Concluding observations of the Human Rights Committee

Ukraine


A. Introduction

2. The Committee welcomes the detailed report submitted on time by Ukraine. It regrets, however, that while providing information on legal norms and enactments governing Ukraine’s obligations under the Covenant, the report lacks information on the implementation of the Covenant in practice. The Committee notes the State party’s undertaking to submit additional written information in response to the Committee’s questions.

B. Positive aspects

3. The Committee expresses its appreciation for the considerable changes, which have taken place in Ukraine since the submission of the last report. These changes constitute a positive constitutional and legal framework for the further implementation of the rights enshrined in the Covenant.
4. The Committee welcomes the adoption of the new Constitution in June 1996, which gives legal recognition to human rights and freedoms of the individual.
5. The Committee welcomes the abolition of the death penalty, including during time of war. The Committee hopes that the State party will ratify the second Optional Protocol to the Covenant.
6. The Committee notes with satisfaction the State party’s ongoing efforts to reform its legislation, including the new Law on Refugees of 2001, the Law on Immigration of 2001, the Citizenship Law of 2001 and the decriminalization of libel. The Committee also welcomes the establishment of a new Constitutional Court, the adoption of a new Criminal Code, the enactment of new legislation relating to the protection of human rights and the creation of an appeal court system.
7. The Committee welcomes the establishment of the Office of the Ombudsman charged with the responsibility for protection of human rights in Ukraine.

C. Concerns and recommendations

8. The Committee is concerned that in the case of a clash between the Covenant rights and domestic laws the latter might prevail. Neither through examination of the report of the State party nor during the discussion with the delegation could the Committee obtain a clear understanding of how potential conflicts between Covenant rights and domestic laws are resolved.

The State party must ensure the effective implementation of all Covenant rights, in accordance with article 2 of the Covenant and including through independent and impartial courts of law operating in compliance with article 14.

9. While recognizing that there has been some progress in achieving equality for women in political and public life, the Committee remains concerned that the level of representation of women in Parliament and in senior positions in both the public and private sectors remains low.

The State party should undertake appropriate measures to give effect to its obligations under articles 3 and 26 so as to improve the representation of women in Parliament and in senior positions, in both the public and private sectors. The State party should consider the adoption of positive measures, including educational measures, to improve the status of women within the society.

10. The Committee notes with concern that domestic violence against women remains a problem in Ukraine. The State party should take positive measures, including through enactment and implementation of adequate legislation and training of police officers and sensitization of the population, to protect women from domestic violence.

11. The Committee expresses concern that under the state of emergency, as envisaged in article 64 of the Constitution of Ukraine, the right to freedom of thought under article 34 of the Constitution and the right to freedom of religion could be restricted in a manner incompatible with the provisions of article 4 of the Covenant.

The State party must ensure that its framework for emergency powers during a state of emergency is compatible with article 4 of the Covenant, taking into account the Committee’s General Comment No.29.

12. The Committee notes with concern that the Office of the Ombudsman is seriously under-resourced.

The State party should provide adequate human and material resources to the Office of the Ombudsman to enable it to carry out its work effectively.

13. The Committee is concerned about allegations of police harassment, particularly of the Roma minority and aliens.

The State party should take effective measures to eradicate all forms of police harassment, and set up an independent authority to investigate complaints against the police. It should take steps against those held responsible for such acts of harassment.

14. The Committee regrets that the delegation did not provide the requested information about measures taken to combat racism and anti-Semitic acts and publications, and about the situation of Jewish cemeteries confiscated under Nazi occupation.
The State party is requested to provide the information sought by the Committee by the deadline stipulated in paragraph 25 below. The State party should take effective measures to prevent and punish racist and anti-Semitic acts and inform the Committee by the deadline stipulated in paragraph 25.

15. The Committee remains concerned about the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials.

The State party should institute a more effective system of monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should also ensure that all allegations of torture are effectively investigated by an independent authority, that the persons responsible are prosecuted, and that the victims are given adequate compensation. Free access to legal counsel and doctors should be guaranteed in practice, immediately after arrest and during all stages of detention. The arrested person should have an opportunity to immediately inform a family member about the arrest and the place of detention. All allegations of statements of detainees being obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture.

16. The Committee is concerned at reports of bullying and hazing (dedovshchina) of young conscripts in the armed forces by older soldiers, which in some cases have led to deaths, suicides and desertion.

The State party should strengthen measures to end these practices and prosecute offenders, and take steps by way of education and training in its armed forces to eradicate the negative culture that has encouraged such practices.

17. The Committee remains concerned about the permissible length of detention as a temporary preventive measure (up to 72 hours) in the custody of law enforcement authorities and before detainees are informed of charges brought against them, and about the practice of extending the period of such detention for up to 10 days in certain cases on the initiative of a prosecutor. Such practice is incompatible with article 9 of the Covenant. The Committee is also concerned that no effective mechanism exists for monitoring such detention.

The State party should take all necessary measures to reduce the length of such detention and to improve judicial oversight so as to ensure compliance with Covenant rights. The Committee also requests detailed information about the composition, manner of appointment, functions and powers of the body of inquiry referred to by the delegation, as well as information as to its actual practice.

18. The Committee remains concerned about the continuation of practices involving the trafficking of women in Ukraine.

The State party should take measures to combat this practice, including the prosecution and punishment of those found responsible, and give full effect to the provisions of article 8 of the Covenant.

19. The Committee is concerned about the continued existence of the propiska system, which is incompatible with the right to freedom of movement and choice of residence provided in article 12 of the Covenant.

The State party should abolish the system of internal permits and give full effect to the provisions of article 12 of the Covenant.

20. The Committee notes with concern the information given by the State party that conscientious objection to military service is accepted only in regard to objections for religious reasons and only with regard to certain religions, which appear in an official list. The Committee is concerned that this limitation is incompatible with articles 18 and 26 of the Covenant.

The State party should widen the grounds for conscientious objection in law so that they apply, without discrimination, to all religious beliefs and other convictions, and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.

21. The Committee is concerned about the intimidation and harassment, in particular by government officials, of human rights defenders.

The State party must take measures to end the intimidation and harassment of human rights defenders. Reported instances of intimidation and harassment should be investigated promptly.

22. The Committee is concerned about reports of intimidation and harassment of journalists. It is further concerned about the absence of criteria for granting or denying licences to electronic mass media, such as television and radio stations, which has a negative impact on the exercise of freedom of expression and the press provided in article 19 of the Covenant. It is also concerned that the system of government subsidies to the press may be used to stifle freedom of expression.

(a) The State party should ensure that journalists can carry out their activities without fear of being subjected to prosecution and refrain from harassing and intimidating them, in order to give full effect to the right to freedom of expression and of the press provided in article 19 of the Covenant.

(b) The State party should take effective measures to define clearly in law the functions and competences of the State Communications Committee of Ukraine. The decisions of the State Communications Committee should be subject to judicial control.

(c) The State party should ensure that clear criteria are established for payment and withdrawal of government subsidies to the press, so as to avoid the disbursement of such subsidies for the purpose of stifling criticism of government.

23. The Committee expresses its concern about the vague and undefined concept of national minorities, which is the dominant factor in the State party’s legislation on national minorities but does not cover the entire scope of article 27 of the Covenant. The Committee is
also concerned about reports of cases of discrimination and harassment of persons belonging to minorities.

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection against discrimination, and that members of these communities can enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

D. Dissemination of information about the Covenant

24. The Committee calls upon the State party to publicize the text of these concluding observations in appropriate languages, and requests that the next periodic report be widely disseminated among the public, including non-governmental organizations operating in Ukraine.

25. Pursuant to rule 70 (5) of the Committee’s rules of procedure, the State party is invited to provide, within a period of 12 months, information about steps being taken to address the issues raised in paragraphs 10, 13, 14, 15, 17, 19 and 23 of the present concluding observations.

26. The Committee requests the State party to submit its sixth periodic report by 1 November 2005.
So the Counting chamber will have to control how this money will be spent. Besides, Nina Karpacheva pointed out that the situation in Ukraine concerning torture is very disturbing. MP M. Gutsal told that militia treats brutally not only common people. So, militia beat him, an MP, and his deputy’s ID was taken away and still not returned.

O. Ptashinskiy, the deputy head of the Penitentiary department, told in detail about the state of affairs in his agency. He informed that after the amnesty of 30 thousand convicts the number of those, who remained in penitentiaries equals 193.5 thousand. This number is in compliance with the norms. Yet, as Mr. Ptashinskiy said, courts continue to convict too many people with incarceration. Thus, this year 53.3 thousand persons were convicted, among them 8 thousand got the terms up to one year, and 59% got the terms up to 3 years. O. Ptashinskiy also told about rendering medical aid in penitentiaries. He told that there exist 21 hospital, which render qualified medical aid to convicts. It should be remarked that among the convict there are 4200 persons sick with TB, who acutely need treatment.

I. Zhilka, a representative of a prosecutor’s office, told that during 10 months of the current year the prosecutor’s office released 137 persons, which were detained illegally, 3300 orders were issued about violations of laws and 4461 persons were brought to disciplinary responsibility for these violations.

V. Zubchuk, the first deputy of the State Secretariat of the Ministry of Interior, complained that financing militia in the budget draft is only 26.3% of the needed sum, in spite of the fact that 122 thousand of crimes and felonies are registered annually.

V. Khristich, a representative of the Ministry of Foreign Affairs, pointed out that it becomes more and more difficult to endorse the positive image of Ukraine abroad. There were many speeches, in which MPs and representatives of NGOs, mass media gave examples of torture and cruel treatment. They remarked that, in spite of underfinancing, militia does not need money to stop beating the detained. It was also said much about the ignorance of the public, concealment of the facts of torture and the reaction of state structures to these facts. The openness in these questions will not bring shame on Ukraine in the world public opinion, but, on the contrary, will add to her authority.

The Kharkiv Group for human rights protection prepared a package of documents for all participants of the hearings. The package contained the books «Against torture. Survey of complaints…» and «Observance of human rights in Ukraine in 2000» (the report of the Bureau of democracy, human rights and labor of the USA State Department concerning the practices in the sphere of human rights in the country with the comments by the Kharkiv Group), as well as the text of the fourth periodical report of Ukraine about the fulfillment of the UNO Covenant against torture and other cruel, inhumane or degradating treatment and punishment, the comments by the Kharkiv Group for human rights protection to this report, conclusions and recommendations of the Committee against torture concerning the 3rd and 4th reports of Ukraine. It appeared that MPs have not known the contents of the fourth report and the conclusions concerning it. The MPs were indignant that they got these documents from an NGO and not from the Ministry of Justice. An official from the Ministry of Justice told in his emotional speech that the report was published on the UNO site, besides everybody willing could familiarize with it by addressing the Ministry.

As to the hearings as such, we want to understand what it really was: pre-election activities of MPs, as state officers suspect, a consecutive reaction of power structures to the UNO Committee conclusions, as MPs suspect, or the actual start of fighting for the European face of Ukraine.

It is worth adding that after the parliamentary hearings representatives of the Kharkiv USS directorate appeared in the Kharkiv Group and asked to be given 30 copies of the book «Against torture. Survey of complaints…» They explained that they needed these books for oblast directorates, which must, according to the order from Kyiv, check the facts described in the book. We shall hope that it will be done not for refuting «the slander», but for starting the real fight.

DEATH PENALTY

Shall we cancel the death penalty?

Inna Sukhorukova, Kharkiv

A sly trick, the so-called moratorium on execution of death verdicts, was introduced in Ukraine by the will of the President, who managed in this way to meet the demand of the Council of Europe notwithstanding the position of the majority of MPs and the population. Thus we have not an actual law: the President just suspended the juridical procedure, having refused after 29 November 1996 to consider the requests of mercy. It follows from here that the death penalty cannot be executed. This decision satisfies no one. It is clear why it does not satisfy supporters of the death penalty. But I, a convinced enemy of the capital punishment, also feel dissatisfaction. One reason is that hundreds of the sentenced to death, whose requests of mercy are not considered for years, feel dire psychological torture that cannot be imagined. The second reason concerns the life conditions in our prisons, but the most painful is the unreadiness of the Ukrainian society to solve this problem in its essence. All supporters of the death penalty refer to this unreadiness. A statistical citizen votes for the death penalty, but if it is banned, then, I am sure, crowds of citizens would not revolt in the streets. The public in any developed country become reconciled to the ban of the death penalty many years later after the ban, when citizens see that the ban has not changed the criminal situation in the country. The ban of the death
penalty in the beginning is always the will of the political and intellectual elite. The unreadiness of our intellectual elite to ban the death penalty is the most distressing circumstance. Infrequent and inefficient attempts of some public organizations, journalists or public figures to discuss the topic cannot break the dense resistance, which is felt almost physically. Mass media much more often air the popular arguments against the ban of the death penalty. And I am not surprised to came across an article in my favorite newspaper «Den», which is a very clever defense of the death penalty in Ukraine. The more so that the fact which is described in the newspaper does not favor abstract philosophical and juridical discussions. They write about the trial of a maniac who killed 52 innocent people, one millionth of the total Ukrainian population.

Certainly, the relatives of the victims cannot agree with the abolition of the death penalty, the very idea seems to them sacrilegious. The reader may feel the same emotions, because it is natural to sympathize with victims. But journalists must think more soberly. I have a question to them: if they interviewed relatives of those who perished because of medical mistakes, what would the relatives propose to do with those who caused, due to their negligence or ignorance, death to their dear ones? I met such relatives and they said: such doctors must be put before a firing squad. Nonetheless, the society does not introduce the death penalty even for brazen ignorance of a medical doctor. A relative is under emotions, which is natural. We must sympathize with him, but we must not follow his wishes too literally. When a journalist uses such emotions for discussing some juridical or philosophical problem, he uses a sleight-of-hand.

Once I participated in a TV round table dedicated to the discussion of the death penalty, and one of my opponents, a prosecutor, asked me what would I do with the person who would attempt to kill my child. I answered that I would tear him into pieces. But we spoke not about myself, or any other individual, but about the society. We discussed not a personal revenge, but the death penalty, that is a certain social institution. This difference must be clearly understood. When President Kuchma says that, as a human person, he would kill the murderer of 52 citizens of Ukraine, I sympathize with him. This is a typical case when the individual and the state reaction on a situation may not coincide. Until the death penalty is contained in the Penal Code of Ukraine, the serial maniac Onoprienko, if proved guilty, even in a part of his crimes, will not avoid the capital punishment. Another question is will this verdict be executed. The death penalty is applied less frequently than grave crimes are committed.

Objectively speaking, the arguments and counterarguments seem to be equal in strength. The solution is defined by psychological preferences. Personally for me argument 2 is psychologically insurmountable. Two innocent people were shot in the Chikatillo case and three more were shot in the case of Mozyr maniac in Belorus. I am sure that this is a serial state murder, which is possible under a completely perfect system of legislation. I understand my opponents who affirm that such errors are very infrequent, especially under an efficient Western court system. In contrast to me they consider that the court system can be made more perfect, and thus the problem will be abolished.

However, regardless of the equivalence or not equivalence of the arguments and the counterarguments, the problem has to be solved after the disintegration of the Soviet Union, because we are coming towards Europe and willy-nilly have to accept European values. In Europe there remained no countries (except some post-Communist ones) where the death penalty is retained. As to the USA, the most states have retained the death penalty, but a fierce fight is being carried for its abolishment. In the USA the retaining of the death penalty under the existing abnormal economic conditions resulting in the growing rate of crimes will destroy the last of restraining factors (references to killers who commit crimes after a sober account of all pros and cons).

Arguments of opponents of death penalty

<table>
<thead>
<tr>
<th>Argument</th>
<th>Counterarguments of supporters of death penalty</th>
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<tbody>
<tr>
<td>1. The death penalty does not decrease the number of murderers, which is confirmed by statistics of all countries. Moreover, the abolishment of the death penalty does not correlate with the number of the gravest crimes (references to statistical data gathered during decades).</td>
<td>1. The abolishment of the death penalty under the existing abnormal economic conditions resulting in the growing rate of crimes will destroy the last of restraining factors (references to killers who commit crimes after a sober account of all pros and cons).</td>
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<tr>
<td>2. The state has no right to apply the capital punishment, since the courts very often make mistakes, so the state can cause the death of innocent people.</td>
<td>2. One must perfect the courts in order to avoid mistakes.</td>
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<td>3. Instead of the death penalty one must introduce the incarceration for life, which can be applied more widely than the death penalty. So the society will be better protected from incorrigible recidivists, since the death penalty is applied less frequently than grave crimes are committed.</td>
<td>3. The upkeep of prisoners for life is too expensive. We cannot afford this sort of money.</td>
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<tr>
<td>4. The fair retribution may not be amoral. If the death penalty is abolished, it will provoke citizens to lynch the criminal.</td>
<td>4. The death penalty presupposes the existence of executors, legal killers, which is immoral and harmful for the public morals.</td>
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I believe that we need another approach to this problem. This is not a political and not a juridical question, it is a culturological question in the full sense of the word. Let us try to go out from this circulus vicious and sum up the main arguments pro and contra.
tury Europeans, especially French, carried out fierce debates on public executions, including sophisticated ones. A century before debates started if torture may be applicable (we even legally permitted procedures, not illegal actions that even now are practiced by police in many countries, certainly including ours). Now nobody considers torture normal, the mass consciousness absolutely rejects this form, but the same society supports statistically the death penalty. The recent public execution in Chechnya arose a wave of indignation in all CIS countries, although a furtive execution inside prison walls is justified by the majority.

During the last two centuries the public consciousness of the Western world drifted considerably. The philosophy of right has included the right for life and private inviolability. Most European states refused from the right to kill criminals, thus confirming their cultural affiliation with Christianity, whose commandment "thou shall not kill" is the first and absolute law.

Israel, where Judaism is a state religion, actually does not apply the death penalty, and in the legislation it is retained only for terrorism and crimes against humanity. During the entire history of Israel the death penalty was applied only with respect to Nazis who were guilty of the holocaust. Thus, Israel, being under a strong Oriental cultural influence (a great proportion of Israeli came from Asia), on the legislative and law-applying level demonstrated herself as a state belonging to the Western civilization. Meanwhile, the Oriental countries which appeared after the disintegration of the USSR, by and by are attracted to the field of Islamic influence and begin to apply the laws of Shariat. They do not abolish the death penalty; contrariwise, they started public executions. It is quite clear that any attempts to abolish the death penalty in Islamic countries is too early. I am far from blaming such countries, since here we deal with another type of civilization, which at present sets and solves quite other problems.

However, a country, that regards its future in the framework of the Western civilization, just cannot afford to retain the death penalty since it threatens political isolation and other complications with respect to European countries, which are nowadays donors to post-totalitarian countries, which have dropped for years from their proper cultural frame. All the same we shall have to solve this problem not only in the context of our internal and external policy, but also in the framework of our culture. This demands intellectuals to join the discussion, which is now stays on a miserable and irritating level.

Now a loud campaign is carried around the case of Onoprienko. If one believes mass media, the entire problem consists in the moratorium, and we shall sleep quietly if to make an exception for Onoprienko. But who may guarantee that in our lawless and amoral post-totalitarian country another serial murderer will not appear, who will be captured after the death of several scores of victims? The attempt to defend the death penalty because of a serial murderer is psychologically and politically invalid: this demonstrates that we do not understand what we are doing. And this ignorance is unfortunately demonstrated by the political elite. In six months, if we do not abolish the death penalty, we shall be marched out of the Parliamentary Assembly of the Council of Europe, since we have clearly demonstrated that we are not in Europe yet. On the other hand, we are not in Asia. Ukraine is not attracted to the Orient, like Russia, to say nothing of the post-Soviet countries of middle Asia. Ukraine can be turned to the Orient only by force, as it happened during the last three centuries, when it belonged to the Russian Empire.

So we must return to our European sources and correspondingly measure our actions. The sooner our political elite will comprehend this, the sooner we shall become a normal European country. The most important things now are the will and understanding the essence of the problem. We must not return to the execution of the death verdicts. On the contrary, we must exclude the death penalty from the Penal Code of Ukraine. We must cross the precipice between the Communist and normal world with one leap. Otherwise, being afraid and hesitating, we shall fall down.

«Prava Ludyny», January, 1999

An interview

We have interviewed the prior of the Divine Cathedral in Kharkiv father Viktor Marynchak.

Question: Do you believe that the Declaration of human rights is a Christian political document, which was written and adopted by the initiative of the Western, i.e. Christian countries?

Answer: All that appears in the circle of the European culture is directly or indirectly connected with Christianity. Especially it concerns upper layers of culture, whose development is carried either in the framework of Christianity or is a strained dialog with it, even polemics, but always with Christianity. Perhaps, it is senseless to describe all the parallels in order to prove that the Declaration of human rights is a Christian document, it will suffice to remark that it could appear only in the sphere of the Christian psychology and mentality, for which personalism and humanism are natural. A Christian can display his love to God through his love to other people, through respect to their dignity and freedom, through the care about their life, about their souls, about their right to be themselves, and thus realize the destiny ascribed to them by God. May be, that is the reason why we consider the Declaration of human rights as Christian, since, in the aspect of morals and right, it embodies the Christian attitude to a human being.

Q.: The right for life is one of the most fundamental human rights. What is your attitude, as a priest, to this right?

A.: The right for life for a Christian is something that does not belong to man, a carrier of this life. It belongs to God and no one else. That is why Christianity condemns not only attempts at life by someone else, but also suicide. Man has no right to raise hand on someone’s or his own life, since the life is created by God. Let us recall that church condemns abortion, since the mystery of germinating life is a demonstration of God’s will, for even an embryo is unique. Even the problem of
contraceptives causes much strain on the side of, say, Catholic church (and partly of the Orthodox church), for it is considered to be the interference into the God’s will. I want to remind that church condemns duels too. The only right to risk our lives is when a Christian gives his soul for his friends and kin, that is for self-sacrifice, as the highest expression of love to other people and hence to God. Such a profound attitude to life is related for a Christian with the complete being here, in this world, since the post-mortem existence of one’s soul is incomplete: the completeness is attainable only in the unity of body and spirit. That is why the existence in such a unity here, in this world, has a decisive role for the eternal existence of the soul and for the soul’s salvation. It follows from here that to interrupt life artificially is prohibited. Whatever man commits here, he must be given the opportunity of further existence for resuming his link with God, humanity and human features in himself. He must be given the chance of penitence, and prayer, and mercy. An unpardoned sinner is a pray of devil. To intercept artificially the life of a person which did not attain penitence means to terminate a possible spiritual evolution. Who has the right for it, except God? Who has the right to stop man on his way in order to throw him into the hell. Other people certainly have not such a right.

Q.: Have you ever participated in public discussions about abolishing the death penalty?

A.: I have never participated in such discussions and I think that it is unreasonable to hold such discussions. The public, the masses are not prepared to abolishing the death penalty. The responsibility for its abolishing must be taken by the legislative power, thus it is worth while to hold such discussions within the legislative power. It is necessary to find as many arguments against the death penalty as possible, and then to publish them and to press on the public thought in this direction. When one holds such discussions in public, one risks to come across people who are deeply wounded by criminals, and because of their irrational state they cannot be influenced by any rational arguments (and it would be unethical to try to convince them). The law is a sphere of the rational. The state of a person injured by a crime cannot be an argument when a rational approach is used for solving some legislative problem. That is why I think that direct public discussions are harmful. A person injured by a horrible crime must go to a priest (or a psychologist, or a doctor), but not to the legislators. The law must care about the legal and moral state of the society, about the moral, legal and psychological «climate», and through it must protect a person from the attempts on the life and soul both from the side of criminals and from the side of blood-thirsty state revengers.

Q.: What is your attitude to the death penalty as a human being, not as a priest?

A.: I hardly can separate a priest and a human being in myself. I may stress the social aspect of this problem, but all the same my attitude would be that of a Christian. A society where the death penalty exists is loaded with vestige. This is a vestige of the vendetta, but the vendetta was cancelled by the Sermon on the Mount, since revenge drives people into a vicious circle of evil, which is driven by devil. An emotion is an energetic phenomenon, its explosion negatively affects our spiritual environment. Just fancy how much terror, hate, deathly grief, desperation are felt by a condemned to death, by his relatives and friends! Just fancy what are the emotions of those who execute the verdict or have to be present at the execution! This shock can lead to suicide, as it is described in the story «Birthday present» by Kotsiubinskiy. Recollect monsters with human appearance figuring in writings of L. Tolstoy and L. Andreev. In modern films of terror the condemned to death and their executors become demons, and these demons try to infiltrate into souls of all of us. The killing sacrificed by law, planned, rational, cool is, in my opinion, not much different from the killing by order. My soul cannot accept the killing which is planned coolly and rationally. The society must be protected from the remnants of the vendetta. The vendetta is characteristic of a primitive society or of criminal gangs. On the other hand, the death penalty is a vestige of a primitive interpretation of anarchism where the force dominates over the right. It is connected with the delight of power over other people’s lives. This delight is demonical by origin. Which demons triumphed when our leaders exterminated hundreds of prostitutes and thousands of priests! Which sadistic emotions were felt by the members of notorious «kasha»! In this context one can observe that the death penalty is a vestige of the times when a human being was treated by the authorities as chips that are not counted when a forest is cut. At last the death penalty is a vestige of the times of wars that were carried out by despots and military regimes. Despots always regarded death as the way to submit the population of the occupied countries. Thus, the death penalty is an atavism. As to myself, I, like a Christian should, identify myself not with the killer and not with his executioner. A Christian may identify himself only with the victim of the killer or of the executioner.

Q.: You are father, will your attitude change if somebody attempted at life of your children?

A.: I am a Christian and a priest, as a latter I had to deal with parents of the killed. Every time, when I meet such people, I identify myself with them, but I try to defeat in myself all low, primitive, dark emotions. It is impossible to use Christianity as a shield protecting from terror, from tragic existence. A Christian must be prepared to meet personal tragedies. I hope that when my time to suffer comes, I shall be able to suppress dark emotions. This is done by Christians through prayers. Our consciousness must not bend under the burden of our woes. Jesus Christ taught us to hate sin, not sinners. I try my best under any circumstances to separate evil from its carrier. A criminal is already a pray of evil, when he commits his crime. I have some experience when a criminal committed some evil with respect to me, and my first reaction was: «Unhappy man, what has he done with his soul!» There was another experience, a bitterer one, when for several weeks I repeated the words of Apostle Paul: «Mine is revenge, and I shall render», said the God, which means that court and revenge and mercy – all of them are God’s. I always have...
these words in mind, and also I recollect, what God said when they hammered him to the cross: «Pardon them, Father, since they do not understand what they are doing». I recommend those who suffered a trouble to pray in these words. I hope that these words will not pass me and I would be able to differ what relates to me personally and what relates to our entire society. Having experienced a personal catastrophe people must not wish all the people and all the society to experience the same. Jesus Christ taught to pray for enemies and I myself try to do this and to teach people to do this, regardless of whichever trouble they suffered.

Q.: Why in your opinion it was Western countries, especially Catholic countries, that started to abolish the death penalty? What was the reason: logical arguments, statistical arguments, cultural ripeness? What, in your opinion, was the contribution of the Christian religion?

A.: I think that it was the result of the general state of the society. The Western countries have overcome totalitarian regimes, tyranny, anarchy, the prior accumulation of capital tightly connected with crime. The society demilitarized, economy became balanced, the living standard rose, the everyday culture grew, democracy developed. As to the elite culture, it was always humanitarian in Europe. For the European mentality personalism was domineering during many centuries. As a consequence, they got a good system of social protection. At last, they worked out the Declaration of human rights, there appeared a public movement of human rights protection. Besides, being secular, the European society never broke with religion. All these circumstances led to the creation of the mental, psychological, spiritual environment, for which the abolition of the death penalty was quite a natural development. I recollect a film in early 70s, titled «Two in a town» with J.Gabin and A.Delon, which ends in executing one hero on a guillotine. The film is constructed in such a way that every viewer identifies himself with the executed. People should be asked if they are for or against the death penalty on viewing such a film. Christianity for me concerns the death penalty too.

Q.: Recall the case of Chikatilo or Onoprienko or cases of other serial maniacal murderers. Do such cases influence your position relative to the death penalty? Do you believe that psychiatrists are correct when they define the serial murderers as mentally healthy?

A.:Serial murderers, maniacs are really creatures resembling humans, and from the medical point of view they may be regarded as normal, but from the point of view of religion they are penetrated with demonic forces. The church knows the phenomenon, in orthodox monasteries there are experienced ascetics who can commit exorcism. Such people could carry out a spiritual (but not psychiatric) expertise. I think that after all it may have been realized. In any case such creatures demand a specific treatment. Isolation, even for life, is unavoidable here. But who can pronounce such a final verdict? Not a man believing in God. A Christian must recollect about the possessed from whom Jesus Christ drove away a legion of demons, after which the possessed became quiet and tame, sitting at Christ’s feet. A Christian always feels the hope that it can happen with such creatures, at least on the threshold of death, but not a violent death. An execution is not a way to exorcise demons, this is a way to attract them. So, in such cases not the death penalty, but the incarceration for life under the observation of experienced ascetics is the only adequate measure.

Q.: You often cooperate with human rights protection activists. Do you find their position close to yours?

A.: Yes, I sympathize with your attitude to a human being, to its dignity, freedom, sovereignty. After Kant, a man is a goal not a tool. Most of all, I like in your activity respect to human being, independent of the fact whether he is a personality with high morals or a hardened criminal. That is tolerance to everyone who needs help and intolerance to every evil, violation of rights, abuse of honor and dignity. This is the ability to identify oneself with those who are in trouble. This is the attitude without which beliefs remain dead. There is one more similarity between us, maybe the most important. I think we have the same attitude to the mutual relations between a person and the society. A man has duties before the society and the society has duties before a man. The mutual character of duties is the foundation of the personalist right, morals, individual behavior and public consciousness. This is personalism without egotism and egocentrism, without extreme individualism, when one’s personality is the goal of the society. This attitude is typical of a certain kind of outlook, this attitude is native for a Christian and this attitude is the philosophic background of the human rights protection movement. This attitude – and it must be specially pointed out – aids to bring together stray lonely people before their collective troubles. It is especially important in our times, because the present crisis, in contrast to the previous ones, separates, disjoins people. And human rights protection movement attempts to overcome this
difficulty and join disjoint people. We, Christians, know
that sins separate and God unites people.
Q.: When you think about the future, do you agree
that Europe has created a unique standard concerning
human rights and expands it to a larger and larger territ-
ory? This unity of approaches is positive or negative in
your opinion?
A.: Yes, there exists a unique standard or, rather,
unique norm of treating a human being. This is the same
goal that Jesus Christ set before his Apostles, when he
said «Go and teach all peoples». Christianity confirms
universal moral values. It unites the humanity on the ba-
sis of the unique approach to a person, to its rights,
freedom and dignity. Humanism has no different ver-
sions for different people, it either exists or not. That is
why a Christian ought to assess positively the unique-
ness of standard concerning human rights.
Q.: Why are we so far from the European standards
and what shall be done to skip this gap?
A.: In order to come to the new state the society
must renounce its past. Germany repented its fascist
past, the Catholic church renounced its inquisition. Sev-
eral post-totalitarian countries renounced their totalitar-
ian past. Our country should do something similar, but
we are not yet prepared to the repentance.
Q.: To whom it would be easier for you to give ab-
solution: to a murderer or to a judge who condemned
him to death?
A.: The pre-condition of absolution is a profound
and genuine repentance of the sinner. Does the judge
feel it? Or he is still sure that what he did was inevita-
able, was a demonstration of the right, was the victory of
the good? God pardons those who repent. The absolu-
tion is independent on the concrete sin, it depends on
moral and spiritual efforts of the sinner.
Q.: When a judge sentences a man to death, is it a
sin?
A.: The commandment says «You shall not kill». This
commandment covers all cases when man directly
or indirectly causes death of another man. That is why
sentencing a man to death is a sin. It is clear that the
man who sentences another man is not free in his
choice. This choice is determined by many circum-
stances: the crime, the criminal’s personality, existence
of crime as such, the level of criminality in the society,
the feeling of danger which, to the judge’s opinion, may
be stopped only by death penalties, the thought about
the victims of the criminal and their relatives, the atti-
dude of the public that is not prepared to any changes in
the laws involved, the pressure from different sides, etc.
Nonetheless, these numerous pressing circumstances do
not dismiss the sin. And it does not release the judge
from his personal responsibility before himself, before
God, before the criminal, before the victims and their
relatives, before the relatives of the criminal, before the
executioners, before the society. All the same the judge
repent.
Q.: Why is our society not prepared even to set the
question of the abolishing death penalty?
A.: The mass psychology of our people is loaded
with a number of vestiges caused by the totalitarian
past, with a militarized society from the civil war to the
end of perestroyka. Even now there is a large group of
people who dream of the «strong hand». And what is a
strong hand as not an opportunity to execute those who
deviate from the general line. In our mass psychology
there is a frequent reaction «Shoot them all!», which is
rooted since the times of the anarchic Bolshevism. For a
tyranny the problem of a just verdict does not exist:
chips fly when trees are cut. They left surrounded ar-
mies, they shot down those who manage to run. They
defeated the enemy without sparing canon flesh, they
exiled entire peoples. They organized the artificial fam-
ine. They demolished «layer after layer» professionals,
artists, intellectuals, officers, physicians, «cosmopo-
lities». They built the Gulag archipelago, they staged
mass trials of «enemies of the people». They directed
armies of youth to Afghanistan and so on, and so forth.
All this shaped a nihilistic attitude to a human being, its
rights and life. A large-scale program to get rid of the
totalitarian public consciousness must be carried out.
And before Bolshevism we had a Tartar-Mongolian
yoke, then oppression, then ruining Zaporožje Sich,
then building St. Petersburg on bones of serfs and so on,
and so forth. All this penetrated our consciousness,
down to genes. Not many people are prepared to fight
this inheritance, and human rights protection activists
are leading the fight. We must fight against this past in-
heritance on a very wide front (by the way, it would be
sensible to organize mass studies of, say, «sources and
sense of Russian Communism» by M.Berdiaiev). Mas-
ive repentance of the people is needed. What force in
the society can organize it? Perhaps, human rights pro-
tectors. Nowadays, under the conditions of the total
public apathy and moral degradation the authority of
morals must be revived. Here we have a shortage of
public forces that could be able to renovate and spread
the idea of the public responsibility before a person and
the individual responsibility of a person before the pub-
lic. That is what a priest must do. Our society lives in a
state of religious savagery. This is the consequence of
centuries of enforced planting of religion and then dec-
dades of its rooting out. If we count wide spreading of
crime linked with the primary accumulation of capital,
helplessness of a man in the street, perfect bureaucrati-
cation of the state, then we shall have a sketch of our
public life. It is obvious that under such conditions, be-
fore such a society it is senseless to set the question of
abolishing the death penalty. The road to it is shaping
humane legislatation, state system, civil society. Only
then our people will be able to change their attitude to
the death penalty.
Q.: What you, as a priest, can say to those who be-
lieve the death penalty to be the most reliable protection
from criminals?
A.: The demon, who lives in the soul of a maniac or
killer, shall, after the liquidation of the body of his car-
rier, look for another shelter. That is why by killing a
killer we do not protect ourselves, on the contrary, we
give birth to a new danger. The reasonable way to pro-
tect the society from hard criminals is to isolate for life
those demonically-loaded individuals.
On the New Year's eve the Constitutional Court of Ukraine considered the appeal of 51 MPs and took a decision that the application of the death penalty is unconstitutional.

The Constitutional Court's decision is obligatory for the executive power on all the territory of Ukraine. The operating laws must be agreed with this decision in the nearest future. Certainly, it gives good grounds for hope. Not only because Ukraine at last fulfilled the obligations taken by Ukraine before the Council of Europe, but because one of the branches of power took the responsibility for this unpopular although necessary decision. We believe that this decision is not less important than the abolition of the death penalty, because up to now our authorities and the most of our intellectual elite stubbornly confused democracy, as the state establishment, with populism, that is the opinion of the majority. Politicians and journalists supported the capital punishment, referring to the «will of the people».

Those, who, together with us, proved the necessity of canceling the death penalty in Ukraine, certainly feel great satisfaction. Nonetheless, we cannot help seeing that the majority of the population is not on our side. In fact, there is nothing strange in it – Ukraine in this respect is not worse and is not better than the majority of the European developed countries. Sociological polls in European countries have shown that only in Scandinavian countries and in Italy the idea of returning the death penalty is supported by about 40%. In other European countries the number of supporters of the death penalty exceeds 50%. The expressive example is the quiet respectable Belgium which suddenly had many-thousand demonstrations for returning the death penalty after the arrest of a pedophilic maniac, who killed little girls. Here we see how unstable is the public opinion even in the country where people are not so irritated by their rightlessness and beggarly living standard, like in post-totalitarian countries. Thank God, the Parliament of Belgium did not agree. This is a normal phenomenon in a ripe democracy, when the power does not follow opinion of the majority in order not to break the very essence of public interrelations. This way of behavior demonstrates the proper role and duty of the state. Power-bearing elite must take the responsibility to be more humane to support higher moral principles than a man in the street, and this attitude must be embodied in the operating laws. Those who write laws and adopt them, those who, by profession and experience, may take part in discussing and estimating laws, must account for historical, geopolitical and cultural tendencies of the country development and its place in Europe and the world. Whereas we are afraid most of all to do something, which the majority dislikes, while an individual is worthless in our country, the people is the magic watchword. All politicians, parties and representatives of different branches of power bewitch each other with this word, since using this word gives them the chance for irresponsibility. The modern society is a very complicated mechanism that requires permanent and experienced agreement of interests of all society members. The majority often has not sufficient information to form opinions on many questions. By the Constitution Ukraine is a representative democracy, so those, who represent the voters, are not just their loudspeakers, as our leftist politicians believe. The majority of voters in our country do not know how to manage our state so, that it would become a convenient place for living. Up to now we have not managed to build such a state. Those, who are in power, must bear in mind a certain model of the society, modern and capable of self-development. The steady incorporation of humanism and moral at the state level can improve the situation in the country, where the relations between the power and an individual have been distorted by existing in the abnormal world for about a century. Abolition of the death penalty is the first real step in the correct direction. The first of many steps aimed at smoothing the cruelty of our society.

On 3 January in the TV program «7 days» an interview was shown among Kyivans devoted to the decision of the Constitutional Court. We were grieved less by the reactions of the participants, than by the attitudes of the TV journalists. They are clearly lacked some tact and the knowledge of the problem. Everybody agreed that Onoprienko (a maniac who killed 52 victims) should be torn to pieces without investigation and trial. But if the same people were put the question: «Do you agree if our husband (or son, brother, grandson) would be arrested and beaten until he confessed to be a murderer, and then would be executed?», we are sure that, since the suggested circumstances are rather realistic, this question would make people think. But the journalists preferred another, provoking, manner of asking questions. They finished their feature with the remark: «The Council of Europe will be satisfied, but will the decision satisfy the majority of Ukrainians?» This rhetoric question can be easily answered: no, they will not be satisfied, as well as Britons, Germans and Frenchmen. Politicians should not condescend to the level of a man in the street; on the contrary, they must educate their citizens, by and by convincing them that the human life is the top value.

To our pity, articles and interviews of such kind as we saw in the program «7 days» are very usual. Our establishment does not like to think. That is why the grave and progressive decision of the Constitutional Court must be doubly praised.

Thus, the decision is taken, but there remain many questions.

On the Orthodox Christmas eve the Kharkiv Group for human rights protection received a letter from a mother of a young man who had been convicted to death on 27 December. The court determined that the man was guilty of serial murders with the purpose of rape. The mother describes evidence that the confession was drawn by means of cruel torture, but neither the court nor the prosecutor's office paid attention to his
complaints. To our pity, this is not an exceptional case in the court practice.

Well, now those who were forced by torture to the confession in the crimes, which they had not committed, will not be executed, and their relatives, advocates and human rights protection organizations will have some time to fight for the acquittal of the innocent and, maybe, for their life since the living conditions in our penitentiaries are very dangerous for life itself. The ODA methods and the level of justice in our courts often leave no chances for the culprits to prove their innocence. Until we have such ODA and such court, the cancellation of the capital punishment is the cancellation of the most brutal neglect of human life by our juridical system.

The importance of the Constitutional Court decision is understandable today only for absolute minority of the society. The so-called «man in the street», to whose opinion our press likes to refer, until he himself is concerned, does not identify himself either with the criminal or with the victim. He just wants to live under protection and he is irritated when the power is unable to do it. If a citizen sees daily that his life and peace is a subject of care on the side of the state, then the cruelty in the society will decrease.

The death penalty as a criminal sanction of the Penal Code is abolished, but the price of life of our citizens remains very low. The citizens’ rights and dignity are under threat all the time. The Constitutional Court was the first to take the responsibility. It would be great if all our politicians and men in power follow the example.

«Prava Ludyny», January, 2000

Death penalty is abolished,
but the related problems remain

A. Bukalov, Donetsk

At the New Year’s eve the Constitutional Court of Ukraine took a decision that the article of our Penal Code permitting the death penalty is unconstitutional. Surely, this is a very important step on the road of Ukraine to the civilized democratic society. But I cannot feel joy because of a number of reasons.

First of all, I would like to remind the reader that it was in the year of 1995, when Ukraine, joining the Council of Europe, voluntarily promised to introduce the moratorium on the execution of death penalties since the moment of joining. This obligation has not been fulfilled. At first, after joining the Council of Europe Ukraine continued to execute the convicted to death for a year and a half. All in all about 200 people were killed. Then, starting with March 1997, the death penalty stopped to be executed without the official introduction of the moratorium. This stubborn refusal of the leading political forces to solve the problem of the legal capital punishment was very suspicious. The reasons are as follows.

The refusal of both the Supreme Rada and the President to introduce the official moratorium on the execution of the capital punishment during more than four years is not the consequence of the «unpreparedness of the society» to such a step, as some politicians hypocritically declare, but the actual unpreparedness of the politicians to put the human rights higher than their political interests. It is this ranging of priorities among our politicians that is dangerous for the society. One is embarrassed and even ashamed when reading in respectable newspaper «Golos Ukrainy» the description of the press conference given by the General Prosecutor where he said that the West «demands» the abolishment of the death penalty in Ukraine and that «this is not the right tone in which they should converse with Ukraine» and that «any hurry in this question leads only to the noticeable rise in murderous deeds».

Firstly, the statement of the General Prosecutor on the «rise in murderous deeds» after the abolishment of the death penalty is not true. Actually, it is contrary to the truth: the world experience witnesses that there is no correlation between the number of murders and the number of executed criminals. Even the Ukrainian experience confirms this: suspension of executions in March of 1997 DID NOT CAUSE the noticeable increase of the number of murders. So, the idea of a «rise» – that is just words and nothing more.

Secondly, maybe the top official considers that any demands from a country to fulfil an obligation taken voluntarily is «not the right tone in which they should converse with Ukraine». Certainly, we know well that many of our politicians use another tone: they promise one thing and do the opposite. But this is not a social problem, that is the problem of honesty of politicians.

Another myth spread by our politicians, supporters of this barbaric punishment, is the statement that it is too expensive to keep especially dangerous criminals in special prisons. Yes, it is expensive. However, in this case the number of the criminals kept is counted in hundreds, maybe in a few thousands. Now there are about five hundred criminals in Ukraine condemned to death. But, on the other hand, our courts incarcerate many tens of thousand, who committed petty offences. Their upkeep costs enormous sums. Yet, the Supreme Rada does not hurry to adopt a new, more humane, Penal Code. The prepared draft of the Penal Code, which already passed the first reading, in many respects is more cruel than the operating one and may cause even greater overcrowdness of penitentiaries. Why are silent those, who want to economize spending other people’s lives?

This position of the authorities and politicians, which is really a populist declaration is a very alarming symptom. In a society which is eager to become civilized the task of a politician is to protect humane values, to make them the norm of life. Alas, our politicians do the opposite and although the decision of the Constitutional Court on the death penalty is an important step on the road of humanization of our society, this is one step. A long road awaits us, and on this road we must explain to the society that we must not have the death penalty. Our politicians for the time being dodge this work.

«Prava Ludyny», January, 2000
**EXTRACTION**

Open and insolent trampling of human rights by Uzbek powers came to Kyiv

Abdufattakh Mannapov, Co-chairman of the Directorate of the Society on observance of human rights in Central Asia

On 16 February 1999 in the center of the capital of Uzbekistan, Tashkent, a series of explosions occurred. There were explosions on Mustakillik square, where the administrative building of ministries and government enterprises, as well as the Cabinet of Ministers are situated. Others mines exploded at the National Bank of external trade, as well as in the Zavodskaya street. Several hours later after the explosions (according to the official version there were six explosions) without careful and many-sided investigation Islam Karimov, the president of Uzbekistan, declared that the explosions were managed by Vakhabites, an extreme fringe of Islamists, which dislike the stability and «prosperity» in the country. President Karimov threatened to chop off their hands. Ten days later Karimov and his camarilla, without any proof, began to blame the democratic party «Erk» and its leader Mukhammad Salikh, the founder of the democratic movement in Uzbekistan. More than a thousand of people were arrested in the country, suspected of participation in organizing these explosions. Among them was Mamadali Makhmudov, a well-known writer, a member of the party «Erk». Another victim was Rashid Bekchanov, an activist of the «Erk» party, Mukhammad Salikh’s brother. Representatives of religious groups and democratic opposition, both in Uzbekistan and outside, declared that they were not connected with the explosions. The powers and the law-enforcing agencies did not demonstrate a single fact that would prove the contrary.

Now the Uzbek powers stretched their feelers to Kyiv. On 15 March in Kyiv members of the Central Council of the «Erk» party Yusuf Ruzimuradov and Mukhammad Bekhchanov, another brother of Mukhammad Salikh, were arrested. Without showing any documents, confirming their rights, Ukrainian and Uzbek militiamen rushed into the flat where Ruzimuradov and Bekhchanov stayed. The militiamen searched the flat and took away books and cassettes concerning the activities of the «Erk» party. Militiamen behaved rudely and they took a solid sum of money earned by commercial activities. There is a danger that Yusuf Ruzimuradov and Mukhammad Bekhchanov will be extradited.

Society on observance of human rights in Central Asia states that the open and insolent trampling of law and human rights by Uzbek powers has reached dangerous scale; the society considers the accusations to the address of the religious groups and the democratic «Erk» party quite groundless. The society appeals to human rights protection organizations and democratic mass media to denounce the actions of Uzbek powers.

The Society demands immediate and unconditional release of all illegally arrested, in particular Mamadali Makhmudov and Rashid Bekchanov, arrested in Tashkent, as well as Mukhammad Bekhchanov and Yusuf Ruzimuradov arrested in Kyiv.

Ukrainian Committee «Helsinki-90» wrote a list to the President of Ukraine

The Ukrainian committee «Helsinki-90», the oldest in Ukraine non-government organization devoted to human rights, and the National Committee of International Helsinki Federation for human rights turn to you with the request to do your best to save two people whose lives are endangered. On 15 March 1999 two citizens of Uzbekistan, Mukhammad Bekhchanov and Yusuf Ruzimuradov, well-known Uzbek politicians, members of the Central Council of the opposition party «Erk» were arrested in Kyiv with rude violation of the legal jurisdictional procedure. Since 1995 they have stayed in Ukraine actually as political refugees, because members of opposition groups in Uzbekistan suffer from cruel repressions, and their life is under permanent danger.

On 15 March 1999 Ukrainian and Uzbek militiamen, without a warrant, broke into the flat where Mukhammad Bekhchanov and Yusuf Ruzimuradov stayed and took them away to a place unknown. It is very probable that they will be extradited to Uzbekistan.

Without touching the question whether Mukhammad Bekhchanov and Yusuf Ruzimuradov are guilty or not guilty of the «subversive activities» in Uzbekistan, we have to remind the following statements:

First, the detainment of Mukhammad Bekhchanov and Yusuf Ruzimuradov was done with the violation of the procedure stipulated by the Ukrainian laws. So, juridically, it can be qualified as illegal kidnapping, which is one of the most shameful crimes condemned by the world public as a kind of international terrorism. We believe that we must not explain to you to which political and juridical results it can lead: it is sufficient to recollect the recent events connected with Odzhallan (although Odzhallan’s extradition was incomparably better grounded than the kidnapping of Mukhammad Bekhchanov and Yusuf Ruzimuradov) – to call this procedure «arrest» means to completely ignore the operating law of Ukraine.

Secondly, the extradition of Mukhammad Bekhchanov and Yusuf Ruzimuradov may be realized only by the court decision. There must be a request from Uzbekistan about their extradition after an open court session, according to the conventional procedure; they must be given the opportunity to use an advocate and, if need be, to protest the verdict in courts of all instances, including the Supreme Court of Ukraine and the European Court of human rights. Only a Ukrainian court must consider any accusations from law-enforcing agencies of Uzbekistan, it is the Ukrainian court which must decide whether the proofs are valid, since the international law stipulates extradition of criminals (and a criminal is determined as such only by court) and not some other persons which are wanted by law-enforcing agencies. To compare, let us recollect a prominent re-
The world will see that in Ukraine similar problems are solved outside the court framework by mysterious agreements between special services.

Thirdly, here we have the extradition of political emigrants from the country, which is a member of the Council of Europe, to another country, whose authorities according to many international organizations regularly punish members of the opposition, where more then one thousand of the «Erk» party activists (and Bekhchanov and Ruzimuradov belong to the administration of this party) are kept in prisons for their political activities, where they are tortured and refused to have advocates and to be tried fairly and in time. It is not difficult to predict how this act of extradition will tell on the reputation of Ukraine in the eyes of the civilized world community. We risk to enter the ranks of the notorious countries with fascist and communist dictatorships, and this is done just when Ukraine with great difficulty preserved her membership in the Council of Europe.

Last but not least, it is impossible to ignore the fact that after extradition Bekhchanov and Ruzimuradov may be executed, which is a wide practice in the present Uzbekistan. There is absolutely no hope that they will be able to defend their rights in an Uzbek court. The last supposition is confirmed by the lot of other «Erk» party members: they all were condemned with brutal violations of not only international laws, but even imperfect Uzbek laws.

The illegal extradition of Bekhchanov and Ruzimuradov sets a very dangerous precedent. Nowadays thousands of political emigrants and refugees fled to Ukraine from Uzbekistan, Afghanistan, Belorus, Russia, Georgia, Chechnya and so on. The extradition of Bekhchanov and Ruzimuradov would mean that all these people will be deprived of political asylum, that every moment everyone of them may be captured and passed to hangmen for torture. We believe that this is a brutal trampling of not only the letter, but also the spirit of international agreements on human rights. The extradition shall be stopped immediately. We beg you to understand how serious is the situation and interfere personally. We ask you to act at once, because every moment Bekhchanov and Ruzimuradov can be passed to hangmen for torture. We believe that this is a too great price, both from the standpoint of morals and common sense.

Hoping for sympathy and support,

Yu Murashov,
Head of the Ukrainian Committee «Helsinki-90»

E. Didy, Executive Director of the Committee

Unfortunately, the top administration of the country did not pay attention to the appeals of international and Ukrainian human rights protection organizations. The Uzbek dissidents were passed to Uzbekistan, and their families became the object of the brutal pressure from Ukrainian law-enforcing agencies. These shameful events convincingly demonstrate the real, not the declared attitude of the top power of Ukraine to the protection of human rights.

In our issue for April 1999 we wrote about the extradition of four Uzbek «terrorists». In what follows we present in an abridged form the results of the journalist investigation carried out by the newspaper «Den».

MEDIEVAL LEVEL OF HUMAN RIGHTS

D. Panchenko, Kyiv

BARE FACTS

On 16 February a number of explosions sounded in Tashkent. As a result 13 were killed and 128 were heavily wounded. One of the explosions threatened the life of President of Uzbekistan Karimov. Such a crime is dealt with in Articles 155, 158 and 159 of the Penal Code of Uzbekistan and is punished by death.

On 15 March, one day after obtaining the sanction of the General Prosecutor of Uzbekistan, the four suspects were detained in Kyiv. They were Muhammedjan Begjanov (a brother of Sallih Begjanov, Dissident No.1 of Uzbekistan), Yusuf Ruzimuradov, Kobul Diyarov and Nimat.

After this President Karimov gave some comments in the local mass media. He said that the trial of the terrorists, who attempted to assassinate him, will be held in May. He again confirmed that his old implacable enemy Sallih Begjanov was involved in the crime. Sallih, the organizer of the practically demolished oppositional movement «Erk» now hides in Turkey. «Now», as Islam Karimov said to the Uzbek channel of the BBC, – «the Interpol seeks for Sallih, and those, who are caught, will tell everything».

The operation of capturing the Uzbek «terrorists» was carried out in utmost secrecy. Begjanov, Diyarov and Nimat were taken in the flat, when they counted the money earned by a day of trade at the market, since during four years they earned their living by selling goods at the market.

SECRET CAPTURE

Representatives of the law enforcing agencies were extremely secretive about the names of the detained and about all correspondent details. Only three days after their extradition (that happened on 18 March) the newspaper «Den» managed to get the official confirmation of the fact. The newspaper got accustomed to such treatment on the side of the law enforcing agencies, but the
families of the detained were treated no better: their wives learned about the place, where the detained were kept, the conditions of upkeep, kind of accusation and, at last, about he fact of the extradition from mass media.

What became the reason of such secrecy? In vain we turned to the Ministry of Interior, General prosecutor's Office, to the Ombudsperson. Together with the wives of the detained we went to the Uzbek Embassy: the Ambassador Akmal Hakimov hid from us. So what are these monsters and how they became so dangerous?

**REASONS THAT DROVE REFUGEES TO UKRAINE**

Nina Lonskaya, the wife of Muhammedjan Begjanov, told us the following: «We lived in Uzbekistan up to 1994. After Election-91, when Karimov became the president, the party «Erk» (Freedom) founded by my brother-in-law Muhamad Sallih began to feel pressure.

At first the party newspaper, also titled «Erk», was prohibited. Then Muhamad Sallih was detained for three days. He was well-known in Uzbekistan as a politician and a publicist.

Besides, people knew him just as an honest and educated man. That was why he was elected to the Parliament. But he left the Parliament because he disagreed with the policy of the President. In a year he had to emigrate to Turkey. My husband still remained, and he and Yussuf tried to prolong the existence of the party».

Nina Lonskaya told that their family was under close observation. «Our children were tailed, a vagan permanently stood before our house, the telephone conversations were tapped. We sometimes wrote notes instead of speaking aloud. A year later my husband was accused of anti-state activities and had to emigrate to Turkey. I remained in Tashkent with two children and pregnant with the third. They often summoned me to the Ministry of interior. One day they came for me in three cars, told me to take passport and documents for the flat. It was already evening. They took me to the regional executive committee. The workers of this committee, who were leaving their jobs, crowded around, since they were told that I was a criminal. I was kept there for five hours. I was made to write, where my husband lived, how long I resided in Tashkent, and if I had obtained my flat legally. Then they took the documents for the flat and said that I had got it illegally. I objected, but they ensured me that they would always find some reasons to regard the documents as illegal. They kept my passport too. In several days they try to burst into my flat at four in the morning, but they could not break the metal door. I was afraid to open the door, because they could secretly put some drug or use some other trick to frame me, and I did not open the door until some acquaintances of mine, whom I called through telephone, came. The intruders made a thorough search of the flat and found nothing. When the surveillance weakened, I and my children slipped to Ukraine via Kazakhstan to my parents, who reside in the Ukrainian town of Starobelsk. There my third daughter was born. Soon my husband joined us. In 1995-96 he published the newspaper «Erk» and conveyed it to Uzbekistan.»

**«ERK» AND «RUKH»**

Members of «Erk» in exile were respected and supported by the Ukrainian «Rukh». The both movements were created almost simultaneously and the both were planned as movements of the intelligentsia for development of democracy. Yussuf, who worked as a part-time correspondent at the «Liberty» radio station, and Muhammedjan often attended meetings and congresses of «Rukh». Muhamad Sallih was a close personal friend of Viacheslav Chernovil, the head of the «Rukh». At a meeting with the leader of «Rukh» Muhamad Sallih said that he was going to put out his candidature at the next presidential election in Uzbekistan. He said that this was the reason why he had not changed his citizenship and even did not ask for a political asylum. Chernovil was worried when he heard that Muhamad Salihi was blamed with the terrorist act. The members of «Rukh» found an advocate for the detained and wanted to initiate parliamentary discussion as to the legality of the detainment of Uzbek political figures in Ukraine. But the crisis in Kosovo left no time for this discussion. As a reporter of the newspaper «Den» has learned, Viacheslav Chernovil phoned to Muhamad Sallih’s family and promised to raise the question at the meeting of the PACE and at the meeting of the Committee of human rights within this organization. But in three days Chornovil perished in a road accident.

**SOME DETAILS**

«On 14 February, two days before the explosion, I and my children went to Tashkent:—told Nina Lonskaya.—My husband remained in Kyiv. Tell me, does it sound right that before the explosion a terrorist can direct his family to the place of the terrorist act? We knew nothing and went to our relatives to take some things, we had left. We learned about the explosions from TV. At first the Extreme Islamists were blamed. In a week the terrorists were found to belong to Islamists and to «Erk». Two village guys were shown on TV, who confessed that Salihi convinced them to go to Turkey and paid for their military training. This was all evidence. The authorities seemed not to know that we were in Uzbekistan otherwise they would arrest us. We hurriedly returned to Kyiv. My husband knew about the explosions, but calmly continued to sell at the market.» Shairai Razimuradova, told us some details about the detention. «They told me that my husband is suspected of the attempt at the assassination of President Karimov. Uzbek officers asked whether expensive things in our home, including a new computer, were bought for the money given by Muhammad Salihi. I answered that we honestly earned them by our work at the market.»

**THE LEGAL ANGLE**

As we already have said, on 18 March the detained were secretly sent to Uzbekistan. Thus, they were devoid of all rights rendered to them by Ukrainian and international laws. The detained had the right to lodge a complaint against the prosecutor’s sanction and against the prosecutor’s refusal to permit them meeting with their advocate. But the fastness of the procedure did not enable them to do it. The Convention on legal aid in civil, family and criminal cases among the countries of the CIS asserts that the request for extradi-
tion must be received within 40 days after the detention, otherwise the detained must be released. Thus, there exists an upper boundary of the incarceration. But the lower boundary does not exist. There is no impediment against the too fast work (which is a rarity, but worked in the case of the Uzbek refugees).

The authorities assert that neither the detained nor their advocate complained on inhumane conditions of their detention and upkeep. That is not witnessed by any neutral third side. The behavior of the officials, who took part in the action, confirm the suspicion. According to the words of Shaira Razimuradova, their advocate turned to the Ministry of Interior, and he was answered that «they do not need an advocate». A correspondent of the newspaper «Den» asked Sergey Luzanovsky, the detective involved, why advocates were not admitted. The answer was simple: «I am not interested in it». Shaira Razimuradova told that in a fortnight after the detention the officials in the Ministry of Interior told her that the confiscated precious things from their home are «being checked», but another official showed her an IOU signed by Captain of Uzbek militia Turgunov of 18 March, testifying that all confiscated things were moved to Uzbekistan. Sergey Luzanovsky rudely refused to show the copy of the IOU: «I won't give you anything. Go and talk with your Uzbeks.»

There is another side of the question. Ukraine signed a number of International documents, according to which a country should not extradite suspects to another country where the capital punishment and torture are practiced. The European Court of Human Rights prohibited Hungary to extradite a citizen of the USA to his native country, because he could be executed there. The UNO Convention on Prohibition of torture set even more stringent restrictions. Article 3 of this document stipulates that a country-member must not extradite anybody to another country if there are serious grounds to believe that torture may threaten the extradited person. (Recall Karimov's phrase that «those who are caught will tell everything»).

Here are some more facts illustrating the level of observance of human rights in Uzbekistan.

On the suspicion of a connection with the terrorist act, simultaneously with Muhammadjan, another brother Kammil Begjanov was arrested. He is forty-five-year-old, father of five children, who all his life worked in a village of Horezm region. Another brother Rashid is incarcerated. Militia found in a sack of rice, which he bought to a market, a package of drug. The arrest strangely coincided with the escape of his brother Muhammad.

Another illegal novelty was that Ukrainian law enforcers often just accompanied their Uzbek colleagues, who did in the capital of Ukraine what they wanted. Here is an example of the brutal treatment of an ethnic Uzbek, but a Ukrainian citizen Kirgizbay Muminov by a joint Ukrainian – Uzbek team (the Ukrainian part was from Vatutinskiy precinct). Citizen Muminov told the following: «Two my nephews from Tashkent came to me with the purpose to enter institutes. They lived in my wife's flat. On 17 March I with my wife went to visit them. We decided to return on foot, because after three heart strokes I move very little. We walked along Balzac street. Suddenly two cars braked near us, and six men in civil clothes jumped out. We were frightened, thinking that they were gangsters. The wife started crying: «Don't beat him! He is after his third heart stroke!» They pushed me to a car and started to beat. I was all covered with blood. My wife was thrown to another car, and we were taken to Vatutinskiy precinct. They told me to keep hands up. In the precinct I saw my nephews. One was in handcuffs. They kicked him on the shins and enjoyed when he could not stand up. They took my key and went to make a search of my flat. Later we found that fur caps and tickets for a football match were missing. In the precinct we were interrogated by Uzbeks. Certainly nobody told their names. They asked me why I live in Ukraine, how many children I have, when I was last in Uzbekistan. I said to them that I had been living in Ukraine for 37 years. We all were shown photos of some Uzbeks, whom we never saw. They asked about the four Uzbeks who are to be deported and about other contacts with Uzbeks. We were photographed en face and in profile and released after two hours. After this reception we summoned motor ambulance three times. Soon the victims turned to the prosecutor's office of Vatutinskiy district with a complaint about the brutal treatment. The man who tried to render them juridical aid soon refused from his noble initiative, since he unexpectedly got many problems with the tax inspection (a very popular scenario). So there is no hope that the thugs from Vatutinskiy precinct will be punished or even mildly reprimanded.

A DANGEROUS PRECEDENT

According to Yuriy Murashov, the Chairman of the Ukrainian branch of «Helsinki-90», an extremely dangerous precedent is created in the country. In Ukraine thousands of political emigrants and refugees found shelter. They are from Uzbekistan, Belorus, Russia, Georgia, Chechnia, as well as from Afganistan and other countries of the Central Asia. The extradition of the four Uzbek refugees means for all other refugees that they have lost the confidence in their status. Everyone of them may be captured any time and given to torturers.

CRUEL, INHUMAN TREATMENT OF SUSPECTS UNDER INQUIRY AND PRELIMINARY INVESTIGATION

Broke his leg himself

Our bulletin already informed the death of 28-year-old worker Yuri Mozola in the investigating cell of the USS of Lvov region. His body with clear signs of tor-
tured the non-guilty verdict. From whose tortures Mozola died. So the advocates demanded the non-guilty verdict.

Yu.Mozola was interrogated by two shifts headed by Pozovikov and Zherebetskiy. Nobody can prove in which shift and from whose tortures Mozola died. So the advocates demanded the non-guilty verdict.

At the court session the judge read a resolution of the General Procurator's office to stop the criminal case against Pozovikov, Braylian and other officers since «actions of some officers are not criminal and in the case of others the criminal activity is not proved». As a result the court headed by Colonel-Major Eremenko ruled to return the case for the additional investigation.

If the murderers in uniform are acquitted then this trial will become
– a consequent criminal show that for the umpteenth time proves immunity from the law of those whose duty is to enforce the law;
– will strengthen the confidence of law enforcers in their omnipotence;
– will be another proof of helplessness and unprotectedness of simple law-abiding citizens.

A routine raid
Irina Rapp, Kharkiv

Kharkiv Group for human rights protection received ten complaints from teenagers and their parents. They complain at the actions of militiamen of Dzerzhinskiy precinct of Kharkiv.

On 3 April, 1997 from 20.00 to 21.00 in Alekseyevka district a full-scale raid for teenagers was carried out. According to the victims, civil-clothed cops and uniformed militiamen caught them, dragged them to the cars and brought to the districtal precinct. The haul was rich and some victims passed in a closed van more than two hours before they were taken to the precinct. All in all about 35 teenagers were caught.

In the precinct the youngsters were divided into several age groups, they were searched, their personal data and the data on their parents were written down; at last each one was given a number and photographed with the number. All these procedures were accompanied by bad language and threats from the law enforcing officers. The youngsters kept asking, what was the reason of their detainment. A Shliakhov, inspector in charge of minors at Dzerzhinskiy precinct, answered to one of them: «Do you want me to find the reason?»

The youngsters were especially impressed by a militiawoman, an Oksana, who swore incessantly, beat the youngsters and instigated her colleagues to beat «the bloody intelligentsia». One youngster was turned with his face to the wall and «shot down» by really shooting at the wall around him. Oksana took part in the recreation and Shliakhov was present.

At last, about 10 p.m. they began to release the teenagers. By this time several parents gathered at the entrance, wishing to know why their children had been beaten and detained. The parents were not let inside. The militiaman on duty promised that Shliakhov would come out and explain, but nobody appeared.

Next day some of the parents complained to the commander of the precinct V.V. Levchenko. The latter answered that it was a routine raid, that it would be repeated again and again in the future; as to the complaints about beating and the imitation of shooting down, Levchenko answered that he would pass this complaint to Shliakhov. Shliakhov quite unexpectedly declared that no one had shot in the precinct.

It is quite obvious that the militia brazenly violated Article 29 of the Constitution of Ukraine where it is clearly written that «each arrested or detained must be immediately informed on the reason of the arrest or detention, and his rights must be told to him». Besides, they violated Article 5 of the law «On militia», Article 106 of the Criminal-Procedural Code on detention and Article 434 of the same Code on detention of minors. Also was violated Article 28 of the Constitution which forbids torture and other cruel, inhumane or degrading treatment or punishment in Ukraine.

How can law enforcing agencies demand from citizens, especially from the younger generation, to respect laws if the law enforcing agencies violate them so brazenly?

Kharkiv Group for human rights protection turned to the regional directorate of militia and to the procurator, demanding the immediate investigation and taking urgent measures against the participants and organizers of this raid.

We have received the answer from Dzerzhinskiy district procurator's office. Here it is verbatim:

Head of Kharkiv city directorate of MIA Colonel of militia Kharienko A.A.
Copy to: E.Zakharov, G.Marynovsky Kharkiv Group for human rights protection (and several other copies to the parents who handed in their complaints)
The procurator's office of Dzerzhinskiy district of Kharkiv received a number of complaints from parents whose children were detained on 3 April, 1997 by militiamen of Dzerzhinskiy precinct without any reason.
Please, find enclosed the complaints of citizens Chornaya Z.M., Nemicheva L.V. and the letter of Kharkiv G group for human rights protection with the appended complaint of the minor Nemichev A.I.
Please, advise us and the complainers on the result of checking.
Appendix on 13 pages to the first addressee.
Procurator of Dzerzhinskiy district Yu. Karly
We shall hope for the best, but it is more plausible that the militia for the umpteenth time will go unpunished.

«Prava Ludyny», May, 1997
Umpteenth-degree interrogation: a letter from the victim

On 22 March 1997 I, Yu.A.Samoylov, came, by my own will, to Gorniatytsk precinct of the town of Makeecka to learn why militiamen came to my home the previous day. I was taken to an office where several militiamen were present, most very drunken. The first question was: «Where were you from 18.00 to 18.30 on March 20?» I answered, then one of the militiamen advised me not to lie, or else... Another militiaman, I shall call him P., asked me where I work, what is my family, what life I lead. Then six new militiamen in civil clothing came in and one of them whispered something to P. Then I was seated into an armchair, my wrists were manacled to some furniture and then they asked if I knew that a Volkov was killed on March 20. I asked: «Who is he?», for which I was kicked in the chest. Then they told me that Volkov was the head of the Investigation Department, that he was killed from 18.00 to 18.30 on March 20 and that I participated in his killing. After which one of the militiamen started to beat me on the back of my head, saying: «I shall kill you for him». Then I was dragged to a cell on the third story. It smelled of spirit and militiamen's eyes were shining. They manacled me to a chair and beat me with a chair leg. They also put an army gas mask on my face and stopped the inflow of air. Many times I fainted but the militiamen returned me to my senses by kicking in the crotch. They touched my fingers with bare electric wires, put a solder iron to the anus and threatened to torture my wife, children and parents. My interrogators cheered themselves up by drinking vodka.

During the interrogation P. persuaded me to sign the protocol which he wrote that I had killed Volkov. Otherwise, he said, they would kill me and throw my body back of my head, saying: «I shall kill you for him». Then I was dragged to a cell on the third story. It smelled of spirit and militiamen's eyes were shining. They manacled me to a chair and beat me with a chair leg. They also put an army gas mask on my face and stopped the inflow of air. Many times I fainted but the militiamen returned me to my senses by kicking in the crotch. They touched my fingers with bare electric wires, put a solder iron to the anus and threatened to torture my wife, children and parents. My interrogators cheered themselves up by drinking vodka.

Later I was taken into a preliminary detention block. Here during medical examination they found many injuries and asked about the reason. I answered that I had been tortured in the district precinct and wrote a complaint. In the beginning of April I was examined by forensic medical expert with investigating officer B. present. The expert wrote that I got slight injuries. I insisted on another medical examination, but my request was disregarded. I cannot hire a lawyer since I must keep my wife, an invalid son and my parents who are pensioners.

I beg you to do anything to start a criminal case against my torturers and to take my case under some kind of public control.

Yuri Samoylov, Donetsk region


They don't want to find killers

A.Bukalov, Donetsk

On 28 February 1996 Viktor Kulinich with his wife Tatiana were detained by Donetsk militia and, accordin to Tatiana, beaten up in the Regional militia station. A day later Tatiana was released. On March 4 the investigator of the Kuibyshev precinct informed the family of the Kuliniches on the death of Victor. The certificate of death left no doubt that the death was caused by beating. The fact that Victor died within the precinct was undoubted, but nobody hurried to clear up the reason until P.Kulinich, Victor's father, handed a complaint.

On May 6, 1996, the City Procurator passes P.Kulinich's complaint to Yu.Balev, the Kuibyshev District Prosecutor, «for checking».

On June 4, 1996, the District Prosecutor answered to P.Kulinich that his «complaint against the actions of the officers of the regional militia station has been considered. For taking the final decision your complaint is directed to the Regional Procurator's Office».

Since nothing followed, P.Kulinich sent a complaint to the Regional MIA Directorate. On July 29 came the answer from Yu.Seleznev, the Directorate Head. The answer read that his complaint was considered, that the facts were being checked by the District Prosecutor within the framework of the started criminal case. The question on the responsibility of militiamen would be solved within the criminal case.

The wheels of justice rotated slowly and at the beginning of the Christmas the answer came from the Regional Procurator's Office. It did not contain the promised final decision, it informed that the materials were sent to the Districlal Prosecutor, the same one who half a year ago sent the materials for the final decision to the Regional Procurator. Unexpectedly the District Prosecutor answered soon. He informed P.Kulinich that his office «carries out the investigation of the criminal case started on the fact of inflicting grave body injuries to V.Kulinich that caused his death in the regional militia station of the city of Donetsk». The case was entrusted to V.Kandziuba, an investigator of the District Prosecutor's Office.

In several days a letter came from the City Procurator's Office. It informed that the District Prosecutor was given stern instruction to fulfill «complete and objective investigation» and that «the case was put under a special control by the City Procurator's Office».

Months followed and nothing happened. P.Kulinich wrote to the Regional Procurator's Office, to the General Procurator's Office of Ukraine, to Kharkiv Group of human rights protection, to Donetsk newspaper «Tiurma i Volia».

On 14 April 1997 another response came from the Regional Procurator's Office. The answer read that the materials of the criminal case had been considered (repetition is mother of studies, for it was done in July 1996), that the casew was put under a special control by the City Procurator's Office.

Final answer from Yu.Seleznev, the Directorate Head. The answer reads: «Your complaint is directed to the Regional Procurator's Office».

This is like pay arrears. Pays are not given, but multiple measures are taken and put under a special control.

The indefatigable P.Kulinich wrote again, to different instances. Sometimes he even got answers.
On 23 June 1997 the Regional Procurator's Office informed P.Kulinich that the criminal investigation had «fulfilled all the orders involved and all actions needed, but it appeared impossible to identify the persons guilty. On May 6 1997 the case was closed».

By some reasons unknown P.Kulinich was informed in November that the case had been directed to the General Procurator's Office. After this P.Kulinich began to receive anonymous telephone calls promising him swift death. Until now the both parties on the both sides of the telephone link are alive.

On May 6 1997 the case was closed».

A year has passed since the time when the UNO Committee against torture considered the third periodic report of the Ukrainian government on the observance of the UNO Convention against torture and other cruel, inhuman and degrading treatment or punishment. For the first time the debate was conducted with the indirect participation of Ukrainian NGOs which sent in their comments to the government report. The Ukrainian government got rather rigid recommendation of the UNO Committee. How are they realized?

Some results are visible. During trials the courts sometimes started to pay attention to the complaints of the accused that they had been tortured. Several times such cases were directed to an additional investigation. As a rule, the application to the accused any measures of physical or moral duress was, in the final count, not confirmed, which is not surprising, since both the inspectors and the investigation officers serve in the prosecutor's office.

Among the cases, in which torture was applied, the Sebastopol human rights protection group in the comments to the third periodic government report mentioned the case of Aleksandr Guzenko, who died as a result of the beating in the militia precinct. In spite of the repeated requests directed to the Sebastopol Directorate of the Ministry of Interior, the human rights protection group could never get any official information as to the cause of Guzenko's death. Moreover, Yuliya Sirotin, the PR officer of the Directorate, declared that during the last five years no torture was ever observed in Sebastopol.

Somewhat in contrast to this official declaration, on 9 March 1998 the Leninsky district court started a criminal case on Grigoriy G.Savich and established that he, being a junior sergeant of Sebastopol militia, on December 10, 1996, premeditatedly committed actions without his rights and competence; namely, he inflicted heavy blows on the midriff of citizen Guzenko, which led to the latter's death. Besides, junior sergeant Savich was accused of not taking the intoxicated Guzenko to the military commandant's office, for which negligence Savich received from Guzenko's relatives 35 Grn. and spent them for his personal needs.

During the trial Savich explained to the court that he had found Guzenko on the bench in the intoxicated state. Being released, he could get his trauma while returning home from the precinct or falling from the staircase in his house. Savich stated that he did not misuse his rights and that his commanders just wanted a victim to report of their activity in the campaign of purging the staff.

The testimony of the only non-interested witness M.A Vereshchanskaya differed from the testimony of the accused. On December 10, 1996, about 20:40 hours, she was present at the precinct when Savich came to the precinct with a detained man, who was, according to her statement, «tipsy, but cleanly dressed; he walked straight to the row of chairs, pressing his right hand to the cheek and asking, for what he had been hit. Then the detained was taken into the office of the officer in charge of minors Arakelian, who was in his office. She heard a loud noise, as if a heavy object hit the wall, swearing of the both militiamen and the detained, the exclamation of pain, then another blow». After this another militiaman Kharitonov closed the door to Arakelian's office.

According to the conclusion of the forensic medicine No.56 of 13 January 1997, Guzenko's death was caused by the closed trauma of chest and abdomen with the break of spleen, accompanied with internal hemorrhage and massive loss of blood. The experts affirmed that the break of spleen was caused by multiple blows with heavy blunt objects, such as, for example, fists or boots.

The court found junior sergeant Savich guilty of the crime listed in Article 101 Section 3 of the Penal Code (premeditated infliction of grave bodily injuries that caused death), Article 166 Section 3 (misuse of official rights) and Article 168 Section 1 (reception of a bribe for not fulfilling a due action). The final punishment was given according to the most stringent article, and Savich was condemned to the nine years of imprisonment with confiscation of half of his property and the further prohibition to occupy a position of a state official for five years, as well as degrading his rank of junior sergeant and spending his prison term in the colony of strengthened regime. At last, the court ruled that Savich had to pay to the widow 10,000 Grn. for moral damage and 400 Grn. to compensate the court expenses.

A number of questions remains after the verdict. The first is: why only Savich was tried? In the room where the crime was committed, Arakelian was present as well, but his case was terminated because his guilt could not be proven. The court ruled nothing against other militiamen, who closed doors and ears in order not to hear the beating of the victim. All of them were clearly accomplices to the crime. Does it mean that torture in this precinct is a routine? Further, at the trial Savich was said to regularly maltreat the detained. But no measures are fixed that he ever was reprimanded or punished in any other way. Was the maltreatment the usual state of affairs?

It is obvious that a lot of efforts should be spent to stop the widely used practice of torture. Only the
«transparency» of the law enforcing agencies and the oversight by the public will make this work efficient.

«Prava Ludyny», June, 1998
On 22 April in the Sevastopol-Kyiv train I got acquainted with two students of one of the higher schools of Sevastopol. They appeared to be citizens of Lebanon, learning for the first year. As became known from further conversation, they went to Kyiv to visit their Lebanese friends and to do the city. Next day the train arrived in Kyiv, and we left the carriage together.

On the stairs of the railway station the Lebanese students were stopped by a militia sergeant. I asked why he did not stop me. The sergeant retorted that he had no pretensions to me, but they were foreigners, and foreigners often commit crimes. Further he informed me that foreign students must get a permission of their respective embassy to leave the town where they learn. I showed my identification card of a journalist and referred to Articles 26 and 33 of the Constitution of Ukraine according to which foreign residents have the same rights to move within Ukraine as Ukrainian citizens, and he has referred to the order of his boss. He refused point blank to name his boss or himself. My Lebanese acquaintances were taken to the railway precinct – I was waiting at the door. In about 10 minutes the students were released. They were pardoned, militiamen explained, since it happened «for the first time». The students explained that for them it was a routine. «They just want some money», they said. They regarded Ukraine as a police-rulled racist state.

R.Romanov, Sevastopol

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A.Bukalov, Donetsk

Citizen Voevodenko after two days in the militia precinct in the settlement of Starobeshevo, was transported to the hospital, where he died, saying before death to doctors that he had been beaten by militiamen. Next day an inhabitant of the settlement, a Bugulets, was detained and accused that he had beaten Voevodenko three days before, which caused the latter's death.

At first Bugulets did not confess of the killing, but after several hours in the precinct he did. Then he was transported to the hospital, where he confessed that he had been brutally beaten by militiamen. Local criminal investigators needed two years for gathering the evidence sufficient for the local court to condemn Bugulets.

The regional newspaper «Tiurma i Vola» several times wrote about this suspicious, or rather leaving no suspicions, case, turned to the district and region prosecutor’s offices, but got in response empty formal answers.

This case was included into the comments of public human rights protection organizations to the official report of Ukraine directed to the UNO Committee against torture. The Ukrainian authorities had to inspect it with especial attention, but nothing was done. The first trial ruled to start a criminal case on the fact of beating Bugulets, but the district prosecutor did not care a pin.

The region prosecutor did not investigate it either saying that all will be elucidated during the trial. The trial in the region court came, and Bugulets was found guilty and condemned to five years. The verdict is an instructive document.

After the version of investigating officers, with which the court agreed, Bugulets and his sister Dolgova came to Voevodenko's three days before Voevodenko's death in order to take back some things which had been stolen by Voevodenko from them. They found both Voevodenko and his wife fast asleep after a drinking bout. Bugulets started to wake the host by kicking him in the midriff and finally jumping on his abdomen, thus inflicting the trauma that killed Voevodenko after three days. As to the witnesses of this horrible scene, there were none except a little boy, the son of Voevodenko (the wife did not wake up). Nonetheless, in the case documents there are many witnesses, but they are not eye-witnesses, their evidence is all hearsay. Some heard from Bugulets that he did beat Voevodenko but without any detail, some remember that Bugulets promised to beat Voevodenko, and so forth. The little son many times changed his testimony. By the way both Bugulets and his sister stated that the child was not present at home during their visit.

On the day of his detention Bugulets was forced (in which way- will be explained below) to sign an explanation. It does not mention any jump on Voevodenko abdomen – the jump appeared in the testimony of multiple witnesses after the cause of Voevodenko's death became known. According to the conclusion of the forensic medical expertise Voevodenko died of the torn intestines caused by the trauma of the abdomen wall.

Judge Motskin was not puzzled by the insufficient testimony. The verdict stated that beating Voevodenko by Bugulets «could include the jump on the abdomen», thus fantasy became fact. Medically, this fact is nonsensical. After the record in militia, being detained (three days after the fantastic jump) Voevodenko was alive and kicking which is impossible if he had the supposed trauma. It seems more plausible that in the precinct they found another bruiser.

One of the witnesses stated that he was in the detention block when Voevodenko was ushered there, complaining that he was gravely beaten by militiamen. The same dying Voevodenko said to doctors in the hospital. This evidence was disregarded by the court.

In contrast to the prosecutor's promises the court did not try to elucidate how Bugulets got so many injuries after several hours in the precinct. The head of the criminal investigation said that he could not explain this strange phenomenon.

It is possible to waste paper and prove the obvious, but the reader does not need much fantasy to understand that around a little-known settlement Starobeshevo of Donetsk region we have a five-star reservation of impunity.

A gain torture

How much for stopping being a suspicious foreigner?

R.Romanov, Sevastopol

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Judge Motskin was not puzzled by the insufficient testimony. The verdict stated that beating Voevodenko by Bugulets «could include the jump on the abdomen», thus fantasy became fact. Medically, this fact is nonsensical. After the record in militia, being detained (three days after the fantastic jump) Voevodenko was alive and kicking which is impossible if he had the supposed trauma. It seems more plausible that in the precinct they found another bruiser.

One of the witnesses stated that he was in the detention block when Voevodenko was ushered there, complaining that he was gravely beaten by militiamen. The same dying Voevodenko said to doctors in the hospital. This evidence was disregarded by the court.

In contrast to the prosecutor's promises the court did not try to elucidate how Bugulets got so many injuries after several hours in the precinct. The head of the criminal investigation said that he could not explain this strange phenomenon.

It is possible to waste paper and prove the obvious, but the reader does not need much fantasy to understand that around a little-known settlement Starobeshevo of Donetsk region we have a five-star reservation of impunity.

A gain torture
Frankovsky district precinct in Lvov searched thieves who stole computers from the forest institute and vocation school No.27.

On 13 May at 8 o'clock the deputy director of the school called for militia and passed to them Yury Gorobets and Yaroslav Bosyi, students of the third year of studies. In the morning the boys' faces were clean and healthy. The boys were kept in the precinct. When Yury Gorobets' mother saw her son at 18:00 in Frankovsky precinct, she was terrified. Later she told: «Yury walked staggering, in dirty clothes. His left ear was swollen and he had a black eye. Being released, he could not even lie down. He told that militiamen beat him on the most painful spots, threw against the wall, kicked the stool from under him and then kicked him, twisted legs and arms. It all resembled torture in gestapo. The doctors diagnosed him on the most painful spots «troubles» with law-enforcing agencies. Sebastopol militia started to gather information against him without opening the operating file, thus violating the law on the

A militia badge must not be a guarantee of impunity

The Sebastopol human rights protection group is worried by the circumstances of death of Andrey Zolotov, a 17-year-old youth, and heavy wound of Andrey Shevchenko, of the same age. The tragedy was caused by shots from a pistol fired by General-Lieutenant Vivat Beloborodov, the head of Sebastopol Directorate of the Ministry of Interior.

The case was investigated by General L.Borodych, Deputy Minister of Interior, who considered the actions of General Beloborodov as «well-grounded and justified». We cannot find this investigation either objective or sufficient. Our group is especially worried by the attempts of militia to conceal the circumstances which led to death of one and heavy wound of the other youth. According to the available information, militia officers prevented Andrey Shevchenko’s mother to visit her son, who was kept in the hospital. Meanwhile, Andrey Shevchenko, who was in a very grave state, was interrogated without advocate. The interrogation lasted to the small hours of the morning.

The Sebastopol human rights protection group deems necessary to start immediate, objective and unbiased investigation aimed at establishing all details of the tragedy. Taking into account the interest of law-enforcing bodies to hush the matter, a broad public resonance and grave consequences of General Beloborodov’s actions, all facts established in the course of the investigation must be made public.

The Sebastopol human rights protection group appeals to all who supports our attitude to write letters to President Leonid Kuchma, to the Minister of Interior Yuri Kravchenko and the General Prosecutor Mikhail Potebenko.

We remind the readers that recently general-lieutenant of militia Vivat Beloborodov, the head of the Sebastopol Directorate of the Ministry of Interior, interrogated two 17-year-old youths. During the interrogation the general started shooting, having killed one and having gravely wounded another.

Valeriy Paliy, a well-known advocate, consented to grant free juridical aid to Andrey Shevchenko, the survival of the shooting match. Advocate Paliy was not shot on the spot. The procedure of his pacifying seems to be more complicated.

As the first step, on 13 February 1999 Leninskiy district court of Sebastopol issued a ruling, where Valeriy Paliy was found guilty in a crime stipulated by Article 185-3 of the Ukrainian code on administrative felonies (disrespect of court). The punishment was ten days of administrative arrest.

Meanwhile a criminal case was started against Andrey Shevchenko, who was accused of attacking a militia officer. The operative and detective activities were carried out by the city prosecutor’s office. At this time the culprit was treated in the city hospital No.1. His relatives were not allowed to see him by militia guards who guarded the ward. Somehow they did not prevent the investigating officer to interrogate the wounded at night without his advocate.

In the course of the court session that considered the case of Paliy it was convincingly proved that the bulk of the materials is falsified, among them the extract from the minutes of the court session where Paliy allegedly demonstrated disrespect to court. It also appeared that the case was not registered in the court office. Valeriy Paliy’s request to have an advocate of his own choice was not satisfied. The court seemed somewhat biased because judge Burchuladze considered the case till late night of 12 February and on the day off of 13 February, which is, perhaps, an unprecedented phenomenon for the Ukrainian judicial system.

Paliy was detained by militiamen at 21:11 hours on 11 February. According to the witnesses and Paliy himself, those who detained him referred to the order issued by general Beloborodov. During the trial Paliy requested to summon Beloborodov as a witness. The request was refused «as immaterial». During two days Paliy was kept in the cooler of the district precinct (with seven other inmates – the cell’s the capacity is four). The detained advocate was kept without sleep and food. The latter is unimportant since Paliy went on hunger strike at the moment of his detainment. On 16 February his health deteriorated to such an extent that motor ambulance was summoned to help him four times. On 17 February Paliy’s advocates managed to meet their client. They insisted on medical expertise, and later Paliy was taken to the same ward of the city hospital, where some time before his client had been kept. The court ruling is still in force: having left the hospital, Paliy must be arrested for the remaining four days.

Paliy says that he has been warned that he will have «troubles» with law-enforcing agencies. Sebastopol militia started to gather information against him without opening the operating file, thus violating the law on the
ODA. Some top brass form Sebastopol militia phoned to the author of this note and asked for the information of all participants of the picket, which was organized by the Sebastopol human rights protection group. My refusal astonished the investigator.

Advocates of the city held a meeting where they unanimously condemned the actions of the Sebastopol militia and court. Many speakers gave examples from their own practice, when militia exerted pressure on the advocates in connection with their professional activities. The behavior of the local mass media is rather characteristic. They are silent about the events connected with Palii’s arrest. In private conversations some newsmen say that Sebastopol advocates are too weak, and it is not worthwhile to quarrel with militia because of them. Others confess that they are afraid of militia and ask pay for the fear.

Now the Ukrainian militia is very active, purging the local authorities in the Crimea. They declare that they are capable of fighting efficiently with any forms of crime at any level. It would be grand if they could fight the crime within militia on the general’s level.

«Prava Ludyny», February, 1999

Persecution of an advocate in Sebastopol

Yevgeniy Zakharyov, Kharkiv

On 11 February 1999 at 21:11 hours armed operatives of the special militia department of Sebastopol detained Valeriy Maksimovich Paliy. The pretext for his detainment was the alleged administrative misdemeanor – disrespect of court. Since his detainment the advocate has gone on a hunger strike to express protest against the illegal action.

Valeriy Paliy is a well-known advocate who took part in a number of noted processes. Recently he has agreed to counsel free of charge Andrey Shevchenko, a minor who was gravelly wounded by a shot from a handgun fired by General-Lieutenant of militia Vivat Beloborodov, the head of the Directorate of the Ministry of Interior in Sebastopol. The second youth was killed, and the service investigation came to the conclusion that the General acted in self-defense.

During two days and two nights Paliy was kept in the cell of the district militia precinct. Such cells are in connection with Paliy’s arrest. The continuation of the session was appointed 11:00 of 13 February. In the course of the court session the accused Paliy pleaded not guilty. The court refused Palii’s request to choose an advocate by himself. According to Paliy’s words, he did not commit any misdemeanor, and all his case is completely fabricated; the actions of court and militia are intended to exert pressure on him, preventing him to perform his professional duties.

Barristers of Sebastopol express their solidarity with Valeriy Paliy.

On 13 February from 9 to 11 o’clock five members of Sebastopol human rights protection group organized a picket near Leninskiy precinct where Valeriy Paliy was kept. The participants of the picket held posters «Down with arbitrary rules!» and «Freedom to Valeriy Paliy!»

On 13 February Leninskiy district court of the city of Sebastopol considered the case from 11:00 to 21:30 hours. The court ruled that Paliy was guilty in the misdemeanor stipulated by Article 185-3 of the Ukrainian Code on administrative misdemeanors (disrespect of court). Paliy was sentenced to ten days of administrative arrest.

In our opinion, this case is nothing but a shameful reprisal. With great pity we have to state that court became the tool of this savage reprisal. The court session demonstrated repressive nature of the administrative legislation, which offers broad opportunities for arbitrary actions. This case clearly illuminated the system of Ukrainian legal proceedings and showed its inability to establish justice.

During the court session it was convincingly proved that a sizeable part of documents was falsified. The protocol of detainment was falsified, as well as the protocol of the court session of 26 January, during which disrespect of court was allegedly shown. The peak of the legal negligence was demonstrated at the end of the court session when it became clear that the case of Paliy was not registered in the court office and had no number. The wish of the court to keep Paliy incarcerated was so immense that judge Burchuladze was considering the case till the night of 12 February and during the day off on 13 February, which is perhaps without precedence in Ukrainian justice.

According to the testimony of some witnesses and of Paliy himself, they were told during Paliy’s detainment that he was arrested by General Beloborodov’s order. However, this aspect of the case was disregarded by the law since Paliy’s petition to summon Beloborodov as a witness was rejected as «immaterial for the case».

Valeriy Paliy continues his hunger strike. His medical state is grave, and the results of the unjust verdict may be hard.

The Sebastopol human rights protection group turned to the Supreme Court of Ukraine with the petition to supervise the case and protest against the unjust ruling. We appeal to human rights protection activists to
support our colleagues from Sebastopol. We recom-
mend all to send their protests to Sebastopol city court
and to the President of Ukraine.

The address of Sebastopol city court is:
Dmitrieva Galina Nikolayevna
Chairperson of the court
25 Lenina St., 335011
Sebastopol
P.S. The Supreme Court of Ukraine has requested the
court roulng on Paliy's case after numerous letters
against the unjust roulng both Ukraine and abroad.

«Prava Ludyny», February, 1999

* * *

In two previous numbers we informed the reader
about the shooting by general V. Vivat Beloborodov of two
minors, which left one dead and one wounded. We also
wrote that Valeriy Paliy, a well-known advocate, was
detained by Sebastopol militia on an absurd pretext, but
actually in order to prevent him to give juridical aid to
the unlucky who remained alive. Here we place two
materials about the developments of this case: a short
information from the Sebastopol human rights protec-
tion group and a letter to the President of Ukraine by
A. Svetikov, the deputy head of the NGO «Zeleny Swit»
(«Green World»).

Paliy's case will be inspected by the Supreme Court.
As the Sebastopol human rights protection group in-
formed, advocate Valeriy Paliy went to Kyiv to con-
tinue the treatment course after his six-day hunger-
strike. The Supreme Court of Ukraine demanded his
case for examination.

Our informant:
You must rehabilitate the state reputation
Respected Leonid Danilovich!
We turn to you as to a guarantor of the Constitution
in connection with the fact of insolent abuses of Constitu-
tional rights of a citizen of Ukraine which happened
in Sebastopol. This fact, in our opinion, casts doubt on
the assertion that Ukraine is a civilized state which de-
serves to be a member of the democratic European
community.

On 11 February Valeriy Paliy, the well-know advo-
cate, was detained by Sebastopol militia for the alleged
administrative offence – disrespect of court. The arrest
of an experienced barrister on such a pretext is a mock-
ery at the common sense and a challenge to the public
opinion. The advocate was kept behind bars for two
days before the trial. Can you imagine what danger to
the public security he presented? These two days Paliy
was kept in the cooler of the militia precinct, devoid of
food and sleep, which cannot be assessed otherwise as a
degrading treatment of an individual by the state of
Ukraine.

We cannot help supposing that the real reason of
Paliy's arrest is his human rights protection activity and,
in particular, his free juridical help to the youth
wounded by general Beloborodov. Does not it follow
that certain public activities, including human rights
protection, have become dangerous and punishable by
state in our country?

Mr. President, we are sure that the illegality of the
arrest of advocate Paliy will be confirmed by national or
international court, and the advocate will be rehabili-
tated. And we expect that you will rehabilitate the repu-
tation of the state which you head. We ask you to inter-
fere, to have the case carefully examined and to punish
those who are guilty. A. Svetikov

Press-release of the Ukrainian association Amnesty
International

Joining the Council of Europe, Ukraine voluntarily
took a number of obligations, among them was the
promise to introduce the moratorium on execution of
the death penalty. The moratorium was promised to be
started since the day of joining the Council of Europe,
i.e. since 9 November 1995. However, this promise was
not fulfilled, and executions continued for 18 months
longer. During this time 212 condemned to death were
executed. Only after repeated reminding on the neces-
sity to fulfil the obligations and under the pressure of
stringent sanctions on the side of the Council of Europe
the executions in Ukraine were suspended since 11
March 1997. The courts of Ukraine continue to con-
demn criminals to death, but the verdicts have not been
executed for two years. In 1998 the courts of Ukraine
issued 146 death verdicts. Now more than 400 con-
demned to death are kept in prisons, not knowing what
lot awaits them. During this time neither the Supreme
Rada nor the President dared to introduce the morato-
rium officially. The new Penal Code is not adopted yet,
and the question of abolishment of the death penalty in
Ukraine remains to be open.

The Parliamentary Assembly of the Council of
Europe insists that the Supreme Rada must ratify Proto-
col No.6 to the European Convention of human rights
(on abolishment of the death penalty) as a top priority
question.

The attitude of Amnesty International to the death
penalty is consistently negative, and the organization in-
sists on the unconditional fulfillment by Ukraine of the
obligations taken, including the introduction of official
moratorium on executing the death penalty verdicts, and
later, on the legislative abolishment of the capital pun-
ishment.

10 March 1999

«Prava Ludyny», March, 1999

The Supreme Court of Ukraine closed advocate Paliy's
case

Ruman Romanov, Sebastopol

On 26 June the Sebastopol human rights protection
group received a letter from Grigoriy Tverdokhlib, the
prosecutor of the city of Sebastopol, which reads:

«In response to your request concerning the ill-
grounded call of advocate Paliy to account, I inform
you that no materials have been obtained from the Su-
preme Court of Ukraine.

However, the resolution of V. Boyko, the head of the
Supreme Court of Ukraine, of 14 May 1999 was ob-
An incident on a country lane

O. Pokryshchuk, Vinitsa region

«I am proud of militia in Ukraine», said the Minister of Interior Yuri Kravchenko. But there are spots even on the sun.

In the very end of 1998 Vinitsa region got a new head of the Directorate of Interior. The former head, A. Podoliak, went up to the crest of his carrier – now he heads the road police of Ukraine. The Minister of Interior came to Vinitsa and introduced the new head. He characterized the new head laconically: «He does not drink, he does not drink at all!» The local mass media described this touching scene and expressed the fantastic supposition that no drunken militia officers would appear within the region.

The supposition appeared not to be quite realistic. The inhabitant of Ilinske district Vasyl Maslianko, born in 1964, returned form the prison by amnesty of 17 September 1998. He should register in the district precinct, and he duly did so on 20 September.

On 28 September Vasyl Maslianko was walking home along a country lane after his visit to his former teacher Khimich. There he was overtaken by the local militiaman Kravchuk, who braked his car. The scene that followed was witnessed by a retired teacher Nina Leontyevna Misiats.

Hey, nit, get in! – The militiaman was drunk as a king’s trooper. I will not. You are drunk.

The militiaman got out and kicked Maslianko into the groin.

Why have not you come to be registered?

Another kick. The militiaman started to beat Maslianko quite seriously. The latter started to cry:

Nina Leontyevna, save me, this gangster will kill me!

Meanwhile Khimich phoned to the precinct. In an hour another militiaman came from the precinct and contemplated the place of the beating.

Next day the head of the precinct said to Maslianko that he could hand the complaint, but added that he had asked the witnesses and no one of them wanted to give evidence.

29 September the head doctor of the district hospital refused to grant medical aid to Maslianko without the certificate of the forensic expert. The expert found «dislocation of the arm and jaw, injured kidneys and concussion of the cerebral brain». Besides, blood was flowing from an ear for several days.

Belligerent Kravchuk was troubled. He offered money to the victim and even promised to delete from his documents that he had been condemned. This was not the first Kravchuk’s sin: once, being drunk, he wounded himself from his service pistol, another time he ran over a local inhabitant V. Melnik, many times he stopped cars and beat drivers.

In former times such militiamen were transferred to another republic. What are the rules of hush-hushing militiamen’s crimes now, is unknown.

«Prava Ludyny», July, 1999

** * **

Frequent publications about torture applied to our citizens, who had the ill luck to come in touch with our valiant militia, made the independent Cherkassy newspaper «Fakty» carry out a public poll. The newspaper turned to the citizens who on their own experience know the methods of law-enforcers and to law-enforcers themselves with the following questions:

Is it true that militiamen apply beating?

How far may law-enforcers go in applying force?

What (who) can stop them?

Here are some instructive answers.

Viktor K. Condemned for theft (conditionally) after 4 months in a preliminary prison:

– They do beat! From the moment of detention they press on you morally and physically. The vocabulary of the investigators contains exclusively expressions of the type: «Out with it, you motherfucker!», «Stick your rights to your ass, you, bastard!», «You’ll confess what you never done, you, brute!» Any mention of one’s rights makes them furious. No one can stop this.

Oleg N. Never tried, twice detained «for the appearance in a public place in a drunken state»:

– Militia patrols treat our citizens as if they were a patrol of occupying troops. God save you from any protests or mentioning your rights – you will be clubbed and handcuffed. Then you will be taken to the sobering-up station where they will «examine» you as to the degree of the intoxication, of which procedure they have the most approximate ideas. To complain against militia is as stupid as to piss against the wind. I tried.

Stanislav K. Twice condemned. Spent 6.5 years in penitentiaries:

– Cops cannot fancy how to talk with a detained without using fists. Their professionalism is zero. They have little time for detection and their work is assessed by disclosing crimes. So the only way left is to beat out a confession. In their arithmetic the crime is considered disclosed not when the man is sentenced, but when they squeeze a confession from him. How far can they go? As far as they wish, there are no limits. To stop beatings is impossible since the needed laws are absent. The only way out is to sign everything they wish. Otherwise they will beat you to death.

Senior lieutenant V., a detective:
Crime fights crime

V.Brun, Cherkassy

There is a terrifying organization in Cherkassy – the Directorate of fight with organized crime (DFOC). Here I shall tell about some of its activities.

On 10 May in a super-secret way the administration of the Cherkassy preliminary prison moved the body of Sergey Ostapenko from the prison ward of the third town hospital to the mortuary. Sergey Ostapenko was tormented to death. Meeting with his relatives in the prison he told that he was brutally tormented. The torture applied to him, the so-called «monument», consisted in hanging him by hands for hours without foot support. It resulted in stopping blood circulation in his arms and his arms became gangrenous.

Sergey’s mother told that she could not recognize her son. In particular, his hands were paralyzed and he had to be fed by other people. When her son was dying in the prison ward at the third town hospital, the convoy refused to take the needed medicine from the mother. Before the arrest Sergey Ostapenko was an athlete weighting 80 kg. After six weeks in the preliminary prison he lost half of his weight.

In the Cherkassy DFOC similar events became a system. Recently a detained somehow «fell out» of the window and died. Liubov Danysheva, a resident of Cherkassy, somehow disappeared together with her son. She complained to the DFOC about some racketeers, the DFOC did not help, and then she complained to security service department in Cherkassy.

Deripana, a resident of Uman, was arrested by DFOC and also disappeared.

Gavaga, the head of the administration of the town of Tal'niw, was arrested and hardly managed to survive. He was blamed of organizing an assassination.

Volodymir Golub, a clerk of Cherkassy town executive committee, was arrested and secretly kept in Zolotonisk cooler for seven months. Later he was found non-guilty by Cherkassy region court, but still he suffers from a mysterious illness.

Several days ago a resident of Cherkassy Komarov was directed from the DFOC to the intense care ward, where his state was assessed as critical, although, when arrested, he was sound as a bell.

Volodymir Kravchenko, a businessman from Cherkassy, after a short stay in the DFOC was directed to the neuro-surgical ward, although he was quite healthy before the «invitation» to this dangerous organization.

Even the district prosecutor of Chigirin lost some teeth in the Cherkassy DFOC. This meeting of law-enforcers is covered by mystery: no one in militia or prosecutor’s office agree to comment it.

Taking into consideration the above-listed facts, it is difficult to expect that Sergey Ostapenko’s death will be objectively investigated and justly punished.

A team of generals from the Ministry of Interior inspected Cherkassy and came to the conclusion that all the facts about torture were false inventions of journalists.

Crime fights crime, and no wonder that the criminal world also started a fight with bruisers from the DFOC. In summer of 1995 a detective was killed, presumably for tormenting an innocent man. Cherkassy militia even did not try to find the killers. Recently another detective was stabbed. He remained alive quite accidentally.

Returning to Ostapenko’s case, his mother is convinced that her son was arrested with the purpose of concealing grave injuries which he got during the first interrogation. The idea was that in the preliminary prison his wounds would heal, and then he would be released. But the wounds did not heal. In order to save him his both arms had to be amputated. So it was de-
decision that it would suit anyone if he died of some mysterious disease.

Ostapenko’s death was commented on request of Cherkassy newspaper «Fakty» by the head of the special unit of the preliminary prison major-colonel Sinelnikov:

— Yes, arrested Sergey Ostapenko died, but we have no part in it. We do not torment the incarcerated, because the prison does not carry out detective activities. When the administration of the prison got complaints from Ostapenko and his parents, we reacted in the framework of law, but we had no right to release him, since this is the right of the detective, prosecutor, or court.

Now we investigate why it is written in the medical card that he was directed to the prison ward of the third town hospital from home and why there are numerous corrections in his medical documents, the corrections which were made already after his death.

When we saw blue spots on Ostapenko’s arms, we immediately called the motor ambulance, but the doctors did not take him to the hospital and diagnosed the reason as allergy (?).

Only the next motor ambulance took Ostapenko to the hospital, but it was late. He died of gangrene.

The investigation will show who is guilty, but one is certain: the administration of the preliminary prison did all they could to save Sergey Ostapenko.

«Prava Ludyny», July, 1999

On preventing torture in Ukraine

Oleksandr Pavlichenko, Information Office of the Council of Europe, Kyiv

It is sad, but true, that the level of violation and cruelty, often purposeless, grows in our society. Analysts explain the situation, referring to the general decline of morals, corrupting influence of the Western mass culture, economic problems. This is partly true, but we are going to speak on the structures that must counteract violation and cruelty. Instead they widely use violation and cruelty in their daily work. I mean the law-enforcing agencies such as the Ministry of Interior, the Security Service of Ukraine, the National Guard.

After the collapse of the USSR in 1991 Ukraine inherited the law-enforcing agencies from the old Soviet system. These agencies retained customs and tasks of the old agencies. The Soviet law-enforcing agencies never paid attention to the problem of human rights. Nowadays new standards are introduced, which are based on the principle of superiority of the right and oriented human rights and democratic values. In order to work in the new regime the «birthmarks» of the past epoch must be erased. In particular, this is stimulated by international legal norms. The law of Ukraine «On coming to the effect of international treaties on the territory of Ukraine» adopted in 1992 and Article 9 of the Constitution of Ukraine define ratified international treaties as an inalienable part of the national legislation of Ukraine, which has to be executed by all means.

Among the international treaties Ukraine ratified (on 24 February 1987) the Convention against torture and other degrading and inhumane treatment and punishments and the European Convention against torture and other degrading and inhumane treatment and punishments, which was ratified on 5 May 1997 and came to the effect on 1 September 1997. Nonetheless, torture and degrading treatment are applied by law-enforcing agencies in cage-like cells of militia precincts, in detention blocks, in preliminary and common prisons. Another example of degrading treatment is the so-called dedovshchina, which became widely spread in the armed forces and is based on behavior patterns of the criminal world. In «Prava Ludyny», No. 1, 1996, an article was published with a very apt title: «Army or prison: where would you prefer to serve the term?»

In order to show how human rights are observed by our law-enforcers I shall describe several examples.

Example 1. «On 10 May in a super-secret way the administration of the Cherkassy preliminary prison moved the body of Sergey Ostapenko from the prison ward of the third town hospital to the mortuary. Sergey Ostapenko was tormented to death. Meeting with his relatives in the prison he told that he was brutally tortured. The torture applied to him, the so-called «monument», consisted in hanging him by hands for hours without foot support. It resulted in stopping blood circulation in his arms and his arms became gangrenous.

Sergey’s mother told that she could not recognize her son. In particular, his hands were paralyzed and he had to be fed by other people. When her son was dying in the prison ward at the third town hospital, the convoy refused to take the needed medicine from his mother. Before the arrest Sergey Ostapenko was an athlete weighting 80 kg. After six weeks in the preliminary prison he lost half of his weight.

Ostapenko’s mother is convinced that her son was arrested with the purpose of concealing grave injuries which he got during the first interrogation. The idea was that in the preliminary prison his wounds would heal, and then he would be released. But the wounds did not heal. In order to save him his both arms had to be amputated. So it was decided that it would suit anyone if he died of some mysterious disease» («Prava Ludyny», July).

This is one, but not a unique fact of the most brutal violation of the Constitutional right (see Article 28 of the Constitution: «Nobody may be subjected to torture, cruel, inhumane and degrading treatment and punishments»). This right is especially often violated by special units for struggle with organized crime.

Example 2. About 4 p.m. a group of minors, age 13 – 15, was detained at the tram stop by družhiniks (civilian assistants of militia). The assistants made a mistake: another group of young hooligans operated not far from this stop. The družhiniks brutally beat 14-year-old Mikhail, breaking him a rib and the head. Having seen that the boy fell unconscious they called a motor ambulance. The diagnosis was cerebral brain concussion. Later Mikhail was observed by psychiatrists (the book «Against torture» published by the Kharkiv Group for human rights protection, p. 161).
Exam p.èle 3. Yuri Kazimirenko, a guard of the bank «Dendy», was detained without reasons, when he executed his service duty. He left the cell of the Starokievskiy precinct of Kyiv with the cerebral brain concussion and emptied pockets. It happened in January 1997 (ibidem, p. 167).

One of the main reasons of such treatment is the wish of law-enforcers to get a confession from the alleged criminal. The rules are such that after getting a confession the case is considered to be closed, regardless of how the case will be considered at court. The law-enforcers are interested in «closing» as many cases, as possible.

Brutality of law-enforcers causes revenge on the side of the tortured and maltreated. «Crime fights crime, and no wonder that the criminal world also started a fight with bruisers from the DFOC. In summer of 1995 a detective was killed, presumably for having tormented an innocent man. Cherkassy militia even did not try to find the killers. Recently another detective was stabbed. He remained alive quite accidentally» («Prava Ludyny», July, 1999).

After the ratification of the Convention against torture by Ukraine the Committee against torture of the Council of Europe sends its inspectors to Ukraine. There were two visits of such inspectors: the first from 8 to 25 February 1998 to Dnepropetrovsk, Kharkiv and Kyiv, where the inspectors attended 23 penitentiaries, including the alcoholic treatment colony and the psycho-neurological dispensary. The second visit was made in July 1999 to the Central Directorate of fight with organized crime and some penitentiaries in Kyiv and Kharkiv. The results of these inspections have not been published yet, because, according to the accepted routine, the state must agree with such publication.

The Committee against torture and degrading treatment has not yet directed its inspectors to the army, where dedovshchina reigns and degrading treatment is a routine.

Exam p.èle 4. «If deds (older soldiers) order a young soldier to take the pose of «standing moose», it means that the young soldier must stand covering his forehead with palms. The deds beat on the palms with fists. A more cruel punishment was the «drinking moose». Here the punished had to bend, and he was beaten with knees. After every blow the punished had to say «Thank you».» («Kievskie vedomosti», 31 July, 1999)

Untypically, the described case got into court, and the guilty went to the disciplinary battalion.

Unfortunately, as practice shows, the available mechanisms of the protection of citizens are insufficient. The post of the ombudsman, introduced since April 1998, has not become yet that body which can interfere into the conflict between an individual and the state. To protect citizens from violence on the side of other citizens or the state it is very urgent to create and activate new efficient mechanisms including the judicial. Information policy that includes public description and denunciation of torture and degrading treatment, as well as instruction about how to fight with torture by legal methods, is very important. We must form a healthy civil society built on humane values. Another important lever is international instruments for human rights protection. Among them the most important roles are played by the European Court of human rights and the Committee against torture of the Council of Europe.

«Prava Ludyny», September, 1999

Torture in law-enforcing bodies of Lugansk oblast

N. Kozyrev, the head of the directorate of the Public Committee of protecting constitutional rights and freedoms of citizens.

The Public Committee of protecting constitutional rights and freedoms of citizens held a press conference in Lugansk. The experience of the Committee and its contacts with citizens enables it to conclude that torture is a routine practice in militia while interrogating the detained. The main two factors, which support the application of torture, are the low professional level of crime investigators and the corruption in law-enforcing bodies.

There exists a strong barrier in investigating facts of torture and punishing the guilty – the corporate amoral mutual assistance of law-enforcers. The reason lies in the absence of any public control in the law-enforcing practice. The other reason is that either in militia or in prosecutor’s office or in the court system nobody is eager to clean the profession from amoral people who subvert the authority of the power.

Ukraine ratified the European Convention on human rights in 1997. According to Article 9 of the Constitution of Ukraine international norms must be regarded as a part of the national legislation. The international documents that must become a part of the national legislation are mostly not published and are not known to law-enforcers, such as, for example, prosecutor Shvachko in the town of Krasny Luch.

The Committee finds it necessary to carry out the following actions:

- to inform about the events in the Lugansk oblast the following addressees: the President of Ukraine, government of Ukraine, ombudsperson, General prosecutor, Supreme Court, Council of national security and defense, Supreme Rada, administration of the Lugansk oblast, human rights protection organizations of Ukraine, Council of Europe and a number of international organizations, such as Amnesty International, the World Organization against torture, Advocates without frontiers, Helsinki foundation on human rights;
- to prepare materials on the inadmissibly low professional qualities of prosecutors and judges for passing the materials to the Supreme Council of Justice;
- to send our materials to all court instances up to the European Court in Strasbourg and monitoring how they are considered.

At the press conference the following facts were made public.

Anatoliy V. Zhovtan, residing at 19/51, 16 line, Lugansk.

On 27 November 1998 was detained as an accomplice to the murder of Yu.M.Zaskalko and was taken to the precinct of Leniniskiy district. There he was interrogated by militiamen R.R.Ushcepovskiy, O.M.Serbin.
and K.V.Kiyanitskiy, who tormented the detained by cruel beating, suspending in handcuffs, suffocating with a gas mask, burning intimate parts, thrusting a stick to the anus, etc.

With many traumas, broken ribs and concussion of cerebral brain A. Zhovtan was later taken to the hospital, where he stayed 42 days. A criminal case was started against the militiamen, and now it is in charge of Leninskiy district court. Contrary to Article 147 of the Penal-Procedural Code the militiamen were not suspended from work and they had many opportunities to influence the ODA, to intimidate witnesses and the victim himself.

Sergey I. Lazarenko, residing at 17/16, micro-district3, the town of Krasny Luch.

On 9 June 1999 detained at home by detective Vasilenko on suspicion of theft in a private flat on 4 March 1999. At the town precinct the militiamen Vasilenko, Popeta, Vasitskiy and Slobodeniuk tormented Lazarenko 37 days on end. All this time they beat the detained forcing him to confess several crimes which he did not commit; among them was one murder. As a result of this criminal investigation Lazarenko got a cerebral brain trauma, concussion, injuries of the chest, broken lower jaw and many smaller injuries. After the demand of his cell-mates a motor ambulance was summoned three times. The doctors demanded putting Lazarenko to a hospital, but it was not done. As a result, Lazarenko got festering of the lower jaw bone and shrinkage of his left arm. As a grave criminal he is still under arrest. And all this time Shvachko, the prosecutor of the town of Krasny Luch, did not take into consideration numerous complaints from the victim and from his mother. Shvachko refused to start a criminal case. The tormentors were not called to the criminal responsibility and were not suspended from their jobs. They used their service position to threaten the victim and his family, ordering them not to start the criminal case. Lazarenko’s mother turned to the oblast prosecutor’s office, ordering them not to start the criminal case. Lazarenko’s mother turned to the oblast prosecutor’s office, the oblast directorate of the Ministry of Internal Affairs, to the General Prosecutor, to the Minister of Internal Affairs asserts that, staying in the detention block, Sergey was beaten by his cellmates. So, it is very possible that this time also no measures would be taken in connection with the fact of arrest he was healthy and never complained at his heart.

A criminal case has been started. However, Vodolazov’s relatives cannot get any information about the course of the investigation.

Dmitry N. Zinchenko, residing in the town of Krasny Luch.

Was arrested at home on 2 June 1999 as an accomplice to the theft. On 5 June 1999 he was beaten during the interrogation by militiamen Vasilenko. As the result the motor ambulance was called, but the doctors were forbidden to testify about the beating. The expertise was carried out only on 20 June. For the second time he was interrogated in the precinct on 11 August. Again he was tormented, this time with the participation of Kovbasa, a deputy of the commander of the precinct.

About all the above-mentioned facts more than 20 complaints were directed to various control instances. The result is null.

«Prava Ludyny», December, 1999

For what a man was killed in Antratsit militia?

O. Svetikov, «Lugansk inform TVU»

On 10 September 2000 Sergey Lysy, a worker of Antratsit ship repair plant, was detained by militia on suspicion of stealing of metal from the plant territory. After a week of staying in the detention block Sergey was transported to the intense care ward by an ambulance with broken chest, scull base, several ribs, arms and legs. At the same time some road police officers came to Sergey’s wife Liudmila and proposed to bring money to the hospital, since otherwise her husband could die. But medicines that Liudmila Lysy brought to the hospital on the request of a doctor could not help her husband, because the traumas that he got in the detention block were fatal. On 18 September Sergey Lysy died. According to his wife, who took Sergey away from the hospital for burial, his body was mutilated, with broken arms, legs and ribs, with fractured scull. Even under the nails some sharp things were driven in.

The press-service of the Lugansk Department of internal affairs asserts that, staying in the detention block, Sergey had a fit of mental disease and was hitting his head against the wall. But doctors said that it is impossible to break one’s chest in such a way. Another explanation of militia was that Sergey was beaten by his cellmates. So, it is very possible that this time also no measures would be taken in connection with the fact of death of a man detained by militia and not even prosecuted yet.
To the President of Ukraine L. D. Kuchma
To the Ombudsman of the Supreme Rada of Ukraine N. I. Kapachyeva
To the Head of the Supreme Rada L. S. Plushch
To the Prime Minister of Ukraine V. A. Yushchenko
To the Head of the Constitutional Court V. E. Shkom o-tosk
To the Head of the Supreme Court V. F. Boyko
To the General Prosecutor M. A. Potabenko
To the Ministry of Interior Yu. F. Karashchenko
To the Ministry of Justice S. R. Stanik

On 4 November there was the 50th anniversary of the European Convention of human rights and basic freedoms protection. In this connection, at the meeting with the representatives of the Lugansk inhabitants on 26 October 2000, the administration of our human rights protection organization mentioned that the development of the state system in Ukraine is more and more influenced by the Convention. The incorporation of the fundamental statements of the Convention into the Second part of the Constitution of Ukraine opened the opportunity of the direct application of the international right norms to the Ukrainian legislation and law-applying practices. Meanwhile, in debating the law-applying practices in our region the participants of the discussion, specialists expressed their worries about the absence of well-coordinated strategy of the implementation of the Convention norms in the sphere of the pre-court processes, trials and penitentiary activities. The majority of abuses of human rights are due, in particular, that many practicing lawyers bred in the traditions of dominating of the state interests over private ones are unable to comprehend the absolute nature of human rights. Besides, they still do not acknowledge the Convention norms as those of the operating laws, thus disregarding Article 9 of the Constitution of Ukraine. It is not quite clear how the precedent right of the Strasbourg court can be extended to the legislation of Ukraine.

In the connection with the necessity to humanize the law-applying practices we would like to attract your attention to a concrete problem of general significance, for whose solving your participation is necessary. Our Committee investigates one of the more acute human rights protection problems: the use of torture during the investigation process in the detention blocks in militia precincts. As our experience shows, torture is applied very often. The very conditions of the upkeep can be considered as a torture, as well the interrogation procedure is a tool of moral breaking of a suspect. Often it serves the criminal practice of faking cases just to improve the reported statistics.

We know cases, which ended fatally. The latest case of this kind occurred in the town of Antratsit. On 10 September 2000 Sergey Lysy (4 Petrenko St., the settlement of Bokovo-Platovo Antratsit), a worker of Antratsit ship repair plant, was detained by militia on suspicion of stealing of metal construction. On 17 September 2000 a motor ambulance transported him from the precinct with traumas incompatible with life, as doctor I. S. Cherniavskiy said. On 18 September S. Lysy died in the intense care ward of the central town hospital.

Torture is dangerous also by the fact that it draws the officers of militia, prosecutor’s office and court into the vicious circle of criminal actions, from which there is no way out under the existing procedures of the criminal investigation, surveillance and court. Here is an extremely demonstrative and tragic example.

On 1 April 1999 militiamen from the Lutuginsky district department of the Lugansk oblast detained a Russian citizen Vladimir V. Perekrest for «determining his identity» (he was visiting his relatives and had his passport on him). He was interrogated the whole day as to his connection with the recent murder of M. O. Chivik. In the process of the interrogation the militiamen started to beat Perekrest, forcing him to confess in the murder. The relatives of the detained witnessed that he was at home in the time of the murder, but their testimony was disregarded. Since Perekrest was battered, the militia did risk to release him. So the repressive machine logic was used: at first they gave an order to detain him for the alleged resistance to militia, next day the court decided to arrest him for 15 days, he was put to the detention block, where they tried to beat out the confession of the murder. As torture tools they applied a gas mask and club. After all Perekrest could not stay the torture any more, signed the confession, after which he was directed to a hospital. There doctors gave the diagnoses: acute cerebral brain trauma, brain concussion, haematoma of the crown of the head and of an ankle. In the hospital ward he was guarded by militiamen, who handcuffed him to the bed. That is the torture continued in the hospital too. After this he was again placed in the detention block for 10 days without any reasons. The complaint handed in by his advocate D. I. Gavrish about the torture was responded by the explanation: Perekrest fell down from the upper bunk in the cell. It became known during the trial that there were no upper bunks in the cell, he actually slept on a bunk 60 cm high. The testimony about his «fall» appeared to be false. Nonetheless, the prosecutor’s office by hook or crook tries to get the verdict of guilty. The Lutuginsky district court twice suspected the convincing force of the accusation act, the case has been recently transferred to the Leninisky district court of Lugansk. The legal term of keeping Perekrest in the preliminary prison has long exhausted, and his advocate considers illegal his client’s stay in the prison. This tragedy concerns not only Perekrest, it is the tragedy of all Ukrainian courts and law-enforcing system, which fast turns into a repressive machine, serving corporation interests.

We are sure that the European vector of the development of Ukraine cannot be realized without a profound change of the law-enforcing system. According to the Convention, the prohibition of torture and unconditional observance of human rights has the absolute character, and namely this presumption, but not the exchange of uniforms and signboards must be put to the base of the reform. We suggest to adopt a special law on the rules of the upkeep in detention blocks that will grant the institutional and procedural guarantees to the detained against the cruel and degrading treatment by militia on the base of European legal standards. These
laws must guarantee the creation of the permanently acting independent mechanism for considering complaints about degrading treatment and torture. The present practices, when the procedures of treatment of the detained by militia are regulated by the minister’s orders, only worsen the situation. Permit me also to remind that the problems with suspects kept in the detention blocks will become worse after 28 June 2001, when item 13 of the «Transitory rules» of the Constitution of Ukraine will lose its juridical force. While turning to you we think that in the difficult times of the crisis the reform philosophy must grant the key role to the human rights, as the most important humanitarian resource of the development. To this end, we must develop the nation-wide human rights protection strategy to unite the efforts both of state and non-state human rights protection organizations.

Respectfully yours,

N. Kozyrev, the head of the directorate of the Public Committee of protecting constitutional rights and freedoms of citizens.

«Prava Ludyny», November, 2000

A Lugansk dweller Vladimir Tarasiuk stayed for fifty days in a surgical and lung departments of a hospital after one day of staying in the Artiomovsk district militia precinct of Lugansk.

Three plain-clothed cops came to Tarasiuk’s home and proposed him to come to the precinct for a talk. Tarasiuk, who did not feel that he was guilty in anything, quietly agreed. But the first question that he heard in the precinct was: «Why have you killed the doll?»

He was explained that they accused him of murdering a woman that had been committed in spring in his neighborhood. Tarasiuk naturally affirmed that he did not know either the place or the time of the murder and had nothing in common with it.

The militiamen decided that the talk was fruitless and began to draw the confession by more «reliable» methods. Beside bare fists they used a gas mask and a steel bar. They switched on music to jam the sound of blows and screams of the tortured victim. They were beating the victim from morning till night and threatened to take him to the park of culture and rest and finish him there. In the evening Tarasiuk was put face-down and was lifted by the wrists handcuffed on the back (it was called rack in the old times); at the same time he was beaten on the ribcage. Being afraid that they would beat him to death, Tarasiuk agreed to confess the crime of which he was not guilty. His torturers remained alive and even will not be condemned for the crime he never committed. But many people in our country were not so fortunate.

Illegal and brutal actions by militia are going on

Andrey Sukhorukov, International Society on Human Rights, Kiev

A number of complaints from citizens came to the public reception office of the Ukrainian branch of the International society of human rights. The complainers are citizens, who experienced physical or moral damage from law-enforcing organs.

On 29 August 2000 A. V. Chetverikov (born in 1981) turned to the reception office. He complained at the illegal actions of militia. According to his complaint, on 28 August 2000, soon after his return from the USA, where he had studied in a university, when leaving his home he met two plain-clothed men. They introduced themselves as militia officers, but did not
show their IDs. Without any explanations the militiamen started to twist his arms and to beat his face. The victim was handcuffed and dragged to his flat. Although they had no search warrant, the militiamen began to search the flat. After the long-lasting search Chetverikov was taken to the district precinct, from which he was soon released. As a result, the following things disappeared from his flat: a guitar (a present from his American friends), $100 and Hr 150 and the documents for the right to own the flat. Later everything was returned except the money.

Another complaint came to the reception office on 12 January 2001. It was from Mrs. Pobizhetska, mother of a victim (from Vinnitsa). The complainer described illegal and brutal actions of militiamen directed to her son Aleksandr Pobizhetskiy. She told that on 1 August 2000 at 10:30 p.m. armed people with tommy-guns and in armored jackets broke into the flat, where her son with his family resided. Without any explanations and without showing their documents, they threw Aleksandr down on the floor and began to kick and beat him with clubs and guns at the side of his little son. When the child started to cry too loudly, one of the men pointed his gun at the boy and shouted at him. Aleksandr was taken outdoors, and the flat was searched. During the search Aleksandr’s wife and her sister were threatened and called names. Then the militia officers said that they were going to detain Aleksandr, take him to the precinct and release next day. As a result of this brutal action the little child and the wife of Aleksandr Pobizhetskiy got moral damage. Later Aleksandr was accused of a crime. Certainly, considering such methods of detainment of suspects, one begins to brood, why during the ODA militiamen completely ignore and brutally violate legal rights of people, sometimes obviously innocent?

On 10 February 2001 a complaint from Valeriy Feygenzon, a former citizen of Ukraine and a present citizen of Israel, was received by the reception office. In his letter Feygenzon asserts: «In law-enforcing organs faked criminal cases are fabricated, torture and beatings are applied to extract confessions from the suspects. They put gas masks on the heads of the tortured, beat them with plastic bottles filled with water, beat on the heels, put armchairs on the ribcage and use other methods borrowed from the Stalin NKVD and the Hitler Gestapo. Certainly, people cannot stand such torture and are ready to sign any testimonies and confessions». The complainer asserts that he has many convincing proofs, which testify about brutal and illegal actions of law-enforcers. In particular he has a videocassette, where it is recorded how militiamen from Kremenchug of the Poltava oblast beat and torture the interrogated people. The names of the torturers are given. The complainer demands from the top state officers of Ukraine to stop the wave of violence on the side of law-enforcing organs directed at Ukrainians and especially Jews. He also demands to start criminal cases against some militiamen of Kremenchug. Otherwise he promises to pass the film to international mass media and, as an Israel citizen, to the Knesset of Israel.

Our militia does not guard us, even in a prison

Igor Stoliarov, Odessa

The people, who had troubles with militia, have lately often turn to me as to a journalist, who tries to be independent. The sad reality is that Ruslan Bodelian and his team, having achieved power in Odessa (through a decision of the Kirovograd oblast court), cannot fulfil their main promise – to provide order in the city.

Recently we have learned that in the bright daytime a terrorist act was committed: as a result of an explosion of a mine a young woman, the wife of a local businessman, lost her leg. We observed a number of criminal acts before: an attempt at life of an assistant of a local MP, killing Boris Vikhrov, the head of the oblast arbitration court, and journalist Igor Bondar. We have listed only the crimes, about which some newspapers dared to write – the newspapers, which still are not afraid of different and already usual claims against mass media from various oblast militia bosses. The militia bosses have accustomed to defend their honor and dignity through courts… Unfortunately, almost all the trials finish in favor of so-called «law-enforcers».

Various reports brag about the decrease of the crime level in the city, but people die and many criminals are never found.

I would not remind militia the names of many victims, whose lot is unknown since 1998. This is a consequence of kidnappings and unprofessional work of law-enforcing organs. The list of Odessa journalists, who were killed to tried to be killed is long: Igor Rozov, Boris Derevianko, Leonid Kapelushny, Volodymyr Bektcher, Ludmila Dobrovolska, Igor Bondar and others…

But one feels the greatest horror, when hears about mysterious deaths in prisons – in the places, where human life must be carefully guarded.

I shall remind our readers that some time ago the oblast organization of the Ukrainian republican party published the appeal, in which it demanded to bring to responsibility some bosses of the Odessa oblast law-enforcing bodies. The reason was understandable: the family of farmer Andrey Dekusar, a supporter of agricultural reforms, was brutally slaughtered.

Very little time passed after this tragic act, and the militia reported that the criminal was found and soon would be tried. It was wishful thinking… The suspect committed suicide: hang himself on the mattress case, which had not to be in the cell at all. The oppositional TV company «APT» was the first to make public the case, which caused displeasure of law-enforcers.

Penitentiaries still remain the places inaccessible to independent journalists, to say nothing about any human rights of convicts. Nonetheless, intolerable conditions in many prisons, including those of Odessa, are elucidated both by former prisoners and human rights protectors. Meanwhile, militia officers continue to insist that «there are no violations».

Again about a crime. How can one describe such a fact. A young Odessa inhabitant Igor Markov voluntarily came to the Directorate of struggle with organized crime (DSOC), being summoned there. There he was detained for the illegal storage of marihuana in the
quantity of a little more than six grams, that is according to Article 229-6 part 1 of the Criminal Code. The drug was found in his nightgown pocket, when he was absent, but in the presence of his mother.

The mother reckons (and this she wrote in her complaint addressed to Odessa prosecutor Medentsev): «my son was arrested by the order of investigating officer Sergey Popov, who since 1997 had special antipathy to him, many times threatened him and promised to put him behind the bars...»

During the entire investigation Popov terrorized me both at home and at work. Three searches were conducted, during which the militiamen tried to find anything that will blacken my son...»

Igor Markov’s mother, without trying to defend her son (she considers it to be a «duty of professionals») tries to understand another, most painful problem – the cause of her son’s mysterious death.

This is seen from the next quotation from the complaint:

«On 18-19 December my son and his advocate finished to study the criminal case materials, and it had to passed to the district court.

However, on 21 December 2000, without informing the advocate, investigating officer Popov transferred, owing to unknown reasons, my son to the detention block of the militia directorate situated in 44 Pecherskaya St. Here «he was processed» by cops and guards».

Later he was found hanged in the prison yard. At hand there were no tools for hanging.

A forensic expertise was held, it showed the presence of amphetamine (a hallucinogenic drug) in his body.

Up to now it is not clear what kind of confession the cops wanted from Markov. What did he know? Whom did he impede to commit crimes?

I shall continue to quote the complaint: «On 22 December 2000 at 14:30 Popov’s colleague Dmitrenko informed about my son’s advocate, but nobody found it proper to inform me about the tragic death of my only son.

The advocate demanded that mother should be informed, but Dmitrenko refused saying that he already had no official relation to Igor Markov, since he already came under the responsibility of the court. If that is true then it is not clear why Popov took my son from the preliminary prison to the detention block.»

Markov’s mother does not understand up to now what has really happened with her son and why his body after an interrogation in the detention block was found in the yard.

Neither it is clear why Igor committed suicide, if several days before he met with his mother, asked to bring him shaving tackle and some other hygienic things and was in good mood. The mother is still convinced that her son could not go from life by his own will, and she demands to investigate Sergey Popov’s activities.

There are some other interesting facts.

The case of Yakimenko, who escaped from the detention block of the USS still remain mysterious. The case became even more controversial after the General prosecutor’s office got the video record of Yakimenko’s confes-
sions. It should be reminded that the latter case was also conducted by the Odessa city prosecutor’s office.

Recently Vladimir Ruben, a member of the oblast Bar, spoke on TV. He was illegally prohibited to defend an accused Rudenko. Such violations of the right have unfortunately become, according to Mr. Ruben, quite common. Other advocates usually try not to notice such situations, but Ruben decided to fight for the right of an accused for legal defense.

A day before two other advocates – Rozhkovski and Tepliakova – got a refusal to defend this very client. Mr. Tepliakova, with tears in her eyes, told that she would not be able to stand «such brutal behavior as demonstrated by Sergey Popov».

Meanwhile, it became Igor Markov’s mother insisted in her complaint that one of the reasons of persecuting her son became the desire to get some information about the case of the above-mentioned Rudenko.

Another example of illegal actions of militia is framing innocent people by putting firearms and ammunition in the places of search. In this manner two women were framed and detained.

Sergey Popov was more than once mentioned by businessman Maklakov, the owner of the cafe «Niagara». This unfortunately businessman suffered much both from racke-
teers and militia, although the latter must protect from the former.

Aleksandr Orlov, a Polish citizen, who was made to give a written undertaking not to leave a place more than a year ago, is waiting in vain for the trial. More than once he turned to top militia officers with complaints, where he described the activities of Sergey Popov and demanded to dismiss the officer at once and to bring him to criminal responsibility.

All his demands were futile...

«Права Людyny», May, 2001

Zoriana Ilenko, Lviv

Sergey Galchik from Lviv, who took part in the events of 9 March and then was arrested, may die in the dungeons of the USS. This was made public by his farther Volodymir Galchik, who has recently had a meeting with his son in the USS preliminary prison of Kyiv. As the farther noted, Sergey was several times examined in the hospital, because his duodenal ulcer inflamed.

By the way, the farther informed that, according to his son, he had been at first detained for three days by militia, and when this term expired, they even intended to release him. Yet, a conflict happened. When the boy had been detained, his jacket was taken, and when he was released from the precinct, he demanded to return his jacket. They mildly advised him to scarm. But Sergey, instead of following the wise advice began to demand an advocate. Instead of giving him an advocate, they gave him a berth in a cell in the USS prison. By today, the farther said, Sergey was transferred to a solitary cell according to his own wish.

Meanwhile in Lviv UNA-UNSO members continue the termless picketing of the USS building, since Kyivan authorities prolonged the captivity term of UNA-UNSO
members for a fortnight. So, the term of incarceration for them has reached almost three months. As Ostap Kozak, the head of the UNA-UNSO Lviv organization, informed that they have no new demands. They did not formulate any new demands, when Oleksandr Ivanchenko, the deputy head of the Lviv oblast USS, came to negotiate with them. They plan to use only one new form of the protest – to go on a hunger-strike on 15 May. Representatives of the recently created Committee of protecting political prisoners, headed by Stepan Khmara, intends to support the event.

The weekly «Postup», No. 70 (728), 10-16 May «Prava Ludyny», May, 2001

An exotic jailbird

Ludmila Nikulina, the wife of Aleksandr Nikulin, the major of Kirovograd, arrested three months ago for taking bribes, handed a complaint to the oblast prosecutor’s office and to the ombudsperson Nina Karpacheva. In this complaint she informed about the unbearable conditions of upkeep of her husband in the preliminary prison.

Representatives of the opposition are sure that the major’s arrest is connected first of all with his behavior at the previous presidential election, when he dared to support not Kuchma, but another candidate – Cherkassy major Vladimir Oliynik.

As Ludmila Nikulina wrote in her complaint, «the food is indigestible even for a healthy convict. Besides, electric energy in the cells is switched off regularly from 7 a.m. to 6 p.m. since 15 March; running water is supplied only two hours a day».

The health of the Kirovograd major has deteriorated.

His wife said: «I was not permitted to see my husband for three months. There must be reasons for it. Maybe, if I see him, I will not recognize him. What remains to me is to guess.

I also have some reliable information from several sources that he is kept with people, who stay there for three years. They have been convicted for robbery. This is a clear violation of the law».


It happened on the Easter’s eve

Valeriy Sagaydak, Lviv

On the eve of the Easter, at night of 14 April 2001, when most inhabitants of our oblast hurried to churches, Roman Lozinskiy, the 44-years-old manager of the private firm «Business-club», beaten black and blue and spattered with blood, was shaking in a dirty carriage, hoping that he would not faint and manage to get home in Briukhovichi. His head ached as if it was placed in a scorched cask, the body ached as if all the bones were broken. He breathed with difficulty, thousands of needles seemed to pierce his lungs at each gasp.

Now he does not remember how he managed to crawl home. His wife and daughter ran up to meet him. The women were terrified with his look. Only on Friday, on 13 April, Roman joked and prepared all of them to celebrate the Easter. Now he looked as if he was taken from a cross: black and blue and with the swollen face. The man spent all his efforts for coming to his bed and then he fainted. The wife tried to revive him. The daughter called a motor ambulance. Doctors, having examined the victim, suspected that some bones were broken and entrails damaged. He was taken to an urgent aid hospital. After X-ray-examination doctors found that a broken rib and numerous bodily injuries. «Who did it?», one of the doctors asked the wife. «Militia», she answered. «When will they finish to torture people?» – commented the doctor. Doctors insisted on leaving the victim in the hospital, since they suspected a breach of the spleen. But Roman, being under the action of physical and psycithical shock, thought that doctors were militiamen in white smocks, who wanted to keep him in the ward for further torturing. His snatched his wife’s sleeve and begged to take him home. He even signed a note that he himself refused from the hospitalization. He became worse at home. This time doctor did not hesitate and put him in the 1st surgical ward. Next day they found liquid in his lungs too.

Now law-enforcers from Lviv accuse their colleagues from Lutsk: they did the thing – no let them be responsible. Although they are unwilling to explain how militiamen from Lutsk department of the struggle with economic crimes, having come to Lviv, managed to get assistance from their Lviv colleagues without any warrant, only on the basis of their intuitive suspicions, wrong as it now has appeared. The facts looked so: on 13 April a top officer from the directorate of the struggle with economic crimes phoned to the Shevchenkovskiy district precinct in Lviv and ordered to assist the neighbors. The local militiamen were not much interested in the goal of their colleagues’ visit and gave them an office. The cops from Lutsk hurried to Briukhovichi. It was 8 p.m. on the Good Friday.

This time Natalya Lozinskaya and her daughter were baking Easter cakes. They did not lock the door because they often advised with their neighbors. Militiamen made use of the open door: they rushed to the kitchen and asked the master of the house. When he appeared they introduced themselves and proposed him to go to the precinct for a couple of minutes. They said that he must go for a check of some signatures. How could he know that there exists a special procedure, that it is done not at a precinct, but in a forensic lab. He had a habit to trust militia.

When he came to the precinct he was taken to a room on the second floor. Two militiamen, Sh. and N, remained with him and started to strip to the waist. Roman was astonished. «First you answer», the militiamen said, «where is the press on which you make faked foreign banknotes?» «Which banknotes?» – the businessman was amazed. «Do not you understand?» – asked a militiaman, «Then we shall show you what is what». And the beating began. He was beaten for a long time, with fists and feet. They beat him professionally – on the kidneys, on the liver, on the ribcage. «You recollect? No?» – the question was followed with more beating. When they got tired they changed each other. When the victim mentioned his wish to have an advocate present, they roared with laughter and beat him stronger. Nobody reacted to his screams. Now and then he
fainted. In a hour Roman begged: «I’ll write what you wish, but stop beating me». «No,» answered his torturers, «tell where you make faked money. We tapped you telephone and know all». «If you know all, go and take it,» croaked Roman, hoping that they will stop the beating. «We will not stop until you tell about the press yourself». Understanding that they would beat him to death, Roman began to shout loudly. His interrogators became angrier. They glued his mouth with scotch, handcuffed his wrists behind his back, put an iron rod between his hands so that he could not stand up and continued the torture.

After five hours of the torture Roman began to vomit. They took of the scotch and he began to shout again. This time some militiamen came in and stopped the beating. Roman, lying on the floor, did not know that at 2 a.m. his wife and daughter went to the precinct and started a scandal. N. met Natalya and said that her husband makes faked money, this is known by his daughter and they both would be responsible. Having learned about the accusations of her husband and daughter Natalya phoned from the precinct hall to advocate Ivan Motrynets. Militiamen were worried. The woman was told that her husband would be released in the morning and that he was OK. You rather go home, they said, he will phone you. Roman really phoned, but his voice sounded as if from a grave. «They beat you?» – Natalya asked. «Yes» – he answered and the talk was interrupted at once.

In the morning it became known that Roman had been taken to Lutsk. By this time both his wife and advocate knew that the militiamen acted without any official warrant. Meanwhile they showed Roman a man, who had phoned him – the man was P., a classmate of his daughter. It appeared that P. was detained with a faked banknote. P. told Roman that he was beaten when militiamen wanted to learn the origin of the banknote. In order to save himself from beating P. began to phone to his acquaintances in Lviv, asking where he could get the banknote. The first man he could reach by phone was Roman. The latter recollected the call, but he did not understand how it implied that he, Roman, faked money.

In the morning advocate Motrynets phoned to Lutsk asking what was the legal basis of taking his client to another town without any provocation. He also demanded to examine his client to determine of he was beaten. In an hour the militia officer on duty in the oblast directorate phoned to Natalya, informed her that her husband would be immediately released and asked her to pardon his torturers in honor of the great religious holiday. She promised to forget all, if they would stop torturing her husband.

In the Lutsk militia directorate we got the information that Roman Lozinskiy did not figure in any criminal case as an accused, and that he was summoned as a witness. They did not comment the beating. Now the prosecutor’s office started the investigation of the activities of the Lutsk militiamen.

The newspaper «Vysokiy zamok», 4 May 2001

Do not open the door to militia!

On 28 October about 6 p.m. an operator of the Severodonetsk trolley directorate (let us call her Larisa) was cruelly beaten in the presence of the gallant Severodonetsk militiamen. The act was done a militiaman, who came to out town from Kremennaya, the spectators were our native so-called «law-enforcers».

We have never observed such one-hundred-per-cent pure cynicism!

Larisa worked at the «Ozerny» station in the second shift. Perhaps, she could not imagine, WHAT would happen to her. She could not imagine that to be an involved and brave person is dangerous for health, but moral and physical. On 28 October she convinced herself on her own bitter experience while trying to stop a brawl of two young men, who were fighting near the dispatcher’s office. One of the fighters, who was somewhat more broad-shouldered than his opponent, waved with handcuffs so swiftly that he could splinter the pane of the office. Larisa went out of the office, fearlessly trying to bring reason to the conflicting sides, threatening to summon militia. In response the knight with the handcuffs produced a long chain of obscenities with the general sense that he himself was a militiaman.

Possibly, such self-assured and insolent behavior of the cop could intimidate someone, who wanted to call militia. But not out lady. She locked herself in the office and without hesitation dialed «02» (militia phone number. – Translator’s note) and asked to come as soon as possible. While she was phoning, the brawl stopped: the cop’s opponent ran away. The winner, having lost his victim, began to brake into the office, waving his ID and swearing.

The militia came «soon», 24 minutes after Larisa’s call. It would be better for Larisa, if they did not come at all. She opened the door and... the first, who rushed in was the fighter-cop. He jumped at the woman and began to beat her against the wall. Larisa fell down, colliding with metal stairs, the fighter fell on top. The woman’s boned crackled, everything went dark before her eyes. The Severodonetsk militiamen observed the scene and did not try to save the woman from the hands of the bandit with a militiaman’s ID, who ran amok. Larisa cried asking to call another militia patrol. Perhaps, even then she continued to believe in people, whose calling was to guard public order and protect citizens. One more patrol car came. They took the fighter-cop to their car. But their prisoner, drunk and bloodthirsty, jumped out and again rushed to the dispatcher’s office to finish his victim. He took Larisa by the hair and hit her against the windowsill. Somehow he did not kill her. All this happened in the presence of two militia patrols!

According to A. Brynza, the head of the trolley directorate, the letter was sent to commander of the town militia I. Shovikov, where the accident (to be exact, an assault with local militia as spectators) was described. It means that the militia commander had to learn about the crime five days ago.
It is still unknown what was done with the militiaman from Kremennaya. Was he detained? Has he got the accusation? The crime is as evident as bruises on Larissa’s face and body. As to the moral damage, can you fancy what a young frail woman feels being beaten by a brute of a man in the presence of militiamen quietly observing this scene? Mr. Shovikov, have you imagined this hell at least once during the passed days?

«Severodinetski Visti», 2 November 2001
«Prava Ludyny», December, 2001

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**JAIL CONDITIONS**

28 months of incarceration, expecting the verdict

S.Karasik, Kharkiv

Kharkiv region court continues the trial of businessman G. Romanov. He is accused according to seven articles of the Criminal Code including the violation of rules of hard currency operations, misuse of his post and forgery. The accused did not plead guilty in any of the crimes. The newspaper «Biznes-Kharkiv» No.47 of 12.18.96 published the interview of Romanov’s advocate V. Vechorka. The latter finds the accusations rather shaky. He presumes that if the business in Ukraine had been done by such people as Romanov, our country would have blossomed. V. Vechorka is sure that the time will come when Ukraine will be proud of Romanov.

Such outstanding figures as E. Ryazanov, V. Bukovskiy, K. Lubarskiy, I. Ratushinskaya, I. Gerashchenko tried to protect the businessman. Ukrainian and foreign press more than once published materials about this case.

G. Romanov was incarcerated on 10.15.94 and is still kept in the preliminary prison, which exceeds the maximum permitted term of eighteen months. By a sanction of the General Procurator’s office the term can be prolonged by three months after 18 months, but even the prolonged term expired on April 12, 1996. The case was passed to the court only in September.

Twice (11.3.94 and 12.28.94) the district court found the detention and arrest of Romanov to be illegal and ill-grounded. The both times these rulings were protested by the Procurator’s office.

By now Romanov has been imprisoned for 28 months. He went on hunger strike and kept it 140 days. All these days he was held in the lock-up cell and was artificially fed. During his imprisonment Romanov suffered an microinsult, got scab and lice. He refuses to take part in the court sessions and again is placed to the lock-up cell.

Kharkiv Human Right Protecting Group sent a letter to region procurator P. Karkach, asking him to conduct the necessary investigation of the violation of operating laws.

«Prava Ludyny», February, 1997

Broke his leg himself

Our bulletin already informed the death of 28-year-old worker Yuri Mozola in the investigating cell of the USS of Lvov region. His body with clear signs of torture was taken in the small hours of the morning on March 31, 1996 to the hospital where doctor Krykina established the death after a 48-hour interrogation. By the doctor’s opinion Yu. Mozola died of asfixion caused by the tight strait jacket. Yu. Mozola had a broken leg, broken ribs, numerous bruises. USS officers Pozovikov and Braylian who conducted the interrogation were tried for killing Mozola. Their advocates tried to prove that Mozola could himself break his leg and ribs by beating his body on purpose against the table, stools, cell walls and floor. The court considered it plausible. There was another line of defence. Yu. Mozola was interrogated by two shifts headed by Pozovikov and Zherebetskiy. Nobody can prove in which shift and from whose tortures Mozola died. So the advocates demanded the non-guilty verdict.

At the court session the judge read a resolution of the General Procurator’s office to stop the criminal case against Pozovikov, Braylian and other officers since «actions of some officers are not criminal and in the case of others the criminal activity is not proved». As a result the court headed by Colonel-Major Eremenko ruled to return the case for the additional investigation.

If the murderers in uniform are acquitted then this trial will become

— a consequent criminal show that for the umpteenth time proves immunity from the law of those whose duty is to enforce the law;
— will strengthen the confidence of law enforcers in their omnipotence;
— will be another proof of helplessness and unprotectedness of simple law-abiding citizens.

«Prava Ludyny», March, 1997

Some statistics on officers of penitentiary system

A. Bukalov, Donetsk

In 1996 2331 people were fired from the penitentiary system. In 1995 – 14. Out of this number 14 men lost their life in executing their duties, 7 people died of excessive drinking, four committed suicide.

In 1996 21 officer was condemned to different terms of incarceration for crimes, in 1995 the corresponding figure was 13. The most popular crimes among them are abuse of power – 7, drug pushing – 4, theft and other petty crimes – 9. The remaining criminal cases are still being investigated.

In 1996 2331 people were fired from the penitentiary system. And only 2202 were hired. All in all the shortage of personnel is 3.6%.

«Prava Ludyny», March, 1997

Some general figures

According to the official data in March 1997 the penitentiary system in Ukraine counted 184 establishment, housing 225.7 thousand convicts. Besides, there were 136.1 thousand of the condemned but left outside prisons. The penitentiary system is serviced by 43.2 thousand of personnel.
Recently experts from the Council of Europe inspected the penitentiary system and came to the conclusion that, under the present conditions, Ukrainian authorities must consider the construction of the autonomous imprisonment structure. According to the experts' opinion, it will enable the state to conduct a distinct coordinated policy in the penitentiary problems.

The Ministries of Internal Affairs and of Justice must jointly develop the mechanism of the possible transfer of the penitentiary system under the jurisdiction of the Ministry of Justice and to hand the developed propositions to the Cabinet of Ministers before 1 September of this year.

«Ukraina moloda», No. 91, May 1997

Amnesty of about 90 thousand convicts

The Ukrainian Parliament adopted the law «On amnesty to celebrate the first anniversary of the Ukrainian Constitution». According to this law, about 90,000 will be amnestied. Last year 17,000 were amnestied to celebrate the Independence Day.

According to the law, the last amnesty will concern people condemned for less dangerous crimes, as well as minors, parents of children younger than 16, pregnant women, men older than 55 and women older than 50. Besides, war veterans, invalids of the first two groups, diseased with active TB, oncological patients (of second, third and fourth groups), liquidators and victims of Chernobyl catastrophe.

«Prava Ludyny», July, 1997
According to general-lieutenant M. Kornienko, the Head of the Main Directorate of the Crimean department of MIA, the militia purges its members who are incompetent or dishonest. In 1996 more than 3000 workers of the Crimean militia were punished and more than 1000 were sacked.

In Nizhnegorskiy district two militiamen beat a sovkhoz laborer so cruelly that he died. The procurator's office started the criminal case by the initiative of militia. An especially dangerous criminal escaped from Chernomorskiy precinct because the militiamen, who guarded him, fell asleep. In Simferopol a thief who had committed 17 thefts was detained, but the cops, who escorted him, let him escape. For these lapses commanders of the precincts of Nizhnegorskiy and Chernomorskiy districts were dismissed together with five other militiamen; fifteen more were punished disciplinary.

«Prava Ludyny», July, 1997

More incarcerated than released by amnesty

A. Bukalov, Donetsk

According to the Directorate of Justice of Donetsk region, in the first half of the current year the courts of Donetsk region tried 14,424 people, 57 were acquitted, 6,443 got the verdicts of imprisonment. According to the known data, about 2,700 people can be released from Donetsk prisons according to the amnesty. As you see, the number of prisoners has the tendency for abrupt growth in spite of all amnesties.

«Prava Ludyny», September, 1997

Ill prisons come under the wing of the Ministry of Justice?

Recently the law was adopted in Russia that the penitentiary system must come from the subordination of the Ministry of Internal Affairs to that of the Ministry of Justice. At once numerous optimistic publications appeared in mass media expressing hope that a better life will start in Russian prisons and camps. And what about Ukraine? How long must our convicts wait for the improvement? We addressed this question to the deputy chief of the corresponding directorate of the Ukrainian MIA, Colonel I. Krasnoshechek. Here is his answer: «In Ukraine the similar law was planned to be adopted on October 1, 1997, but this task appeared not as simple as it seems at the first glance. First of all, about 70 of minor laws and legal acts must be adopted. Besides, money is needed. In Russia the needed expenditures are estimated as 13 billion roubles and in our budget, as you know, there is no money even for increasing pensions.» Even if the change of subordination happens in the nearest future, that will be a mere change of the label. Colonies and prisons will remain to be overcrowded, there will be lots of «extra» clients. In order to improve the situation, a profound perfection of the criminal and criminal-procedural codes is needed. Only after these steps one could expect any real improvement in the lot of those who stay behind the prison bars.
Our penitentiary system

The number of those who stay in all establishments of penitentiary system exceeds now 232 thousand people, that is, on the average, 455 for every 100 thousand of the population. This index is 4 times greater that in democratic countries and 2.3 times greater than in the countries of the middle Europe. 35% of the criminally prosecuted people are imprisoned. To compare, the similar figure for Japan is 3%, for Great Britain – 6%, for Sweden – 8%. On the contrary, the public opinion polls and the polls among lawyers (criminal investigators, prosecutors, judges) show that most pollees (79% among common citizens and 60% among lawyers) suggest to make the measures more stringent and to apply the imprisonment more often. In general, 94% of the pollees accuse the courts of being too liberal.

> «Zerkalo nedeli», No.36, 1997

What is on convict's breakfast tray?

A.Bukalov, Donetsk

The problem of feeding convicts has become very acute. The norms of consumption have been worked out very well, the chiefs of penitentiary establishments say, but without proper financing it is impossible to follow the norms. Many convicts are starving. The authorities avoid answering concrete questions either referring to the confidential character of the information or on the complicatedness of preparing the answers. From reliable sources we know that in the end of 1997 out of 30 thousand convicts in Donetsk region 986 had a shortage of weight of 10 kilograms or more. No wonder since only during the three summer months and only in the prison UIN-28 with 3.3 thousand convicts they have not received 13.6 metric tonnes of meat and 9.5 thousand eggs. The same sad picture can be observed in the TB hospital, where the patients must get especially nourishing food: only in August they did not get 1.1 tonne of planned butter, 2.5 thousand of eggs and 1.5 tonne of meat. Some inspections carried out by the prosecutor's office found that the prison administration was partly guilty. But these inspections are carried out only by the prosecutor's office since the access of newsmen and public organizations to penitentiary establishments is prohibited. No wonder: there is much to conceal. Renata Wolwend, a member of the Parliamentary Assembly of the Council of Europe, visited a preliminary prison in Donetsk in November. She was shocked by the conditions. To survive under such conditions is difficult, but it is very easy to catch TB. During 9 months of 1997 in Donetsk region penitentiary establishments, 983 people caught active TB and 413 died. «People are mortal», – the prison authorities state. It is true. But outside the bars the old people mainly die and in Donetsk region prisons and camps die mature men and women. Meanwhile, people are imprisoned for two to five year terms for a stolen sack of grain or ten meters of cable. And thousands of people starve behind the bars, waiting when the beggarly state will feed them.

> «Prava Ludyny», December, 1997

Problem of AIDS-infected prisoners: a letter from inside the bars

We are AIDS-infected prisoners from the strengthened regime camp UIN-312/32 situated in the town of Makeevka, Donetsk region.

We ask you to consider our request and to help us in the question on which our life, health and future depend. Here nobody keeps any secrets about our illness, everybody calls us AIDS-carriers and treats us accordingly.

Having arrived in the camp, we, AIDS-infected, were put into a separate barrack. We greeted this decision, because we contacted very little with healthy prisoners, who treat us with disgust. Living among our own kind, being united by one grief, we fill ourselves almost like normal people. We have got accustomed to our position, we help and support each other.

Unfortunately, somebody at the top thought otherwise. In December the prison administration informed us that, according to the order of the Ministry of Internal Affairs and the Ministry of Health, all AIDS-infected prisoners must be dispersed in the barracks inhabited by healthy prisoners.

On 10 December they tried to transport us to other barracks, but we refused to obey, knowing that we shall have a lot of problems with eating in the common canteen and so on. The administration did not insist: they said that if they get a document permitting to keep us in the isolated manner, they will do it, and if not, they will have to obey the order from above and force us to obey it too.

We plead everybody to help in solving this question. We do not ask any privileges, we do not refuse to do any work, we just want to live like equals among other unfortunates. For us this is a question of survival.

With great respect and hope
AIDS-infected prisoners of UIN-312/32
19 detachment

Smoke without fire?

E.Zakharyov, Kharkiv

During 1997 many mass media abroad published materials on hard conditions in Ukrainian prisons, colonies and detention blocks. Referring to facts made public by the Kharkiv Group of human rights protection and other Ukrainian right protecting organizations the mass media mentioned, in particular, that units of OMON (a Russian abbreviation for «special militia units») cruelly beat convicts just for training combat techniques during the planned maneuvers in penitentiary establishments. What are the sources of our information?

On 29-30 April of 1997 the UNO Committee against torture heard the third periodic report of Ukraine on the observance of the UNO Convention against torture and other cruel, degrading and inhuman treatment and punishment. The Conclusions and Recommendations of the Committee state in particular that the conditions in Ukrainian preliminary prisons (where people are kept before the trial) can be characterized as inhuman and degrading, inflicting spiritual and physical suffering, as

well as damage to health. In drawing these conclusions the UNO Committee used the commentaries to the Government report which were prepared by Amnesty International, the Kharkiv Group for human rights protection, the Donetsk Memorial and other Ukrainian NGOs. The AI commentaries state that

"... a special instruction of the Ministry of Interior permits training OMON units in penitentiary establishments, and this instruction allows training on convicts with the purpose of preparation for emergencies and suppression of acts of civil disobedience... In 1996 such «manoeuvres» occurred in about 20 colonies in various regions of Ukraine. The «manoeuvres» seem to be held in Zaporozhye Region in September 1997; many convicts were brutally beaten: they were ordered to lie down and then given the boot, they were knocked down by water jets. Convicts of colony ЯЮ 309/70, located in Berdichev, complained to the Prosecutor's office, which started a criminal investigation of this training of OMON.»

The commentary of the Kharkiv Group stated the following:

«It is unknown which legal documents and instructions justify the so-called «military training» of the Ministry of Interior, when combat techniques are trained on convicts: according to unofficial sources, such training was held in 20 colonies».

After the third periodic report of the Ukrainian delegation, the Cabinet of Ministers of Ukraine charged the Ministry of Justice jointly with the Ministry of Interior (MI), the General prosecutor's office and the Ukrainian security service, to prepare the Commentaries of Ukraine to the Conclusions and Recommendations of the UNO Committee. In preparing the Commentaries the above listed agencies also elucidated the question of training OMON units in penitentiary colonies. In letter No.52-5-3576 of 4 August 1997 the Ministry of Justice stated that the MI secret instruction, which permits such training, does not exist. The letter contained the following explanation:

«By MI order No.49-91 special units are organized in six regions. The units, on the average, consist of 25 men. The main task set before the special units is ensuring law and order in penitentiary establishments, timely suppression of group illegal actions on the side of convicts, taking preventive measures for protecting the personnel from criminal attempts, etc. During 1991-1997 these units were used for thorough searches of the territory of colonies and prisons, for withdrawal of forbidden objects, for suppression of mass disorder and collective disobedience, for liberation of hostages and capturing escaped prisoners.»

According to the MI report, no special units entered any colony in Zaporozhye region or colony Ул-309/70 in Zhitomir region, neither in 1996 nor in the first half of 1997. The General Prosecutor's office informed that in September 1994 the Prosecutor's office of Zhitomir region investigated a criminal case about the alleged arrival of a special unit in April 1994 in colony ЯЮ-309/70 and the consequent beating of several convicts. The case, the procurator's office added, after a thorough investigation was closed on 28 February, 1995, for lack of corpus delicti, according to Article 6.2 of the Penal-Procedural Code of Ukraine. In contrast to the MI report the Prosecutor's office admitted that in 1996-1997 there were cases of introducing special units to colonies of Zaporozhye region with the purpose of the prevention of group disobedience of convicts and liberation of hostages. However, the actions of the special units were closely controlled by the commandment of the MI Regional Directorate and no contacts with convicts were allowed. The role of convicts and hostages were played by the colony wardens and servicemen. No complaints of cruel or degrading treatment from convicts were received by the prosecutor.

Comparing these documents with the data available to the human rights protection organizations, it is not difficult to conclude that the same events are meant, the difference being in some discrepancy of the dates mentioned. The secret instruction seems to be renamed to Order No.49-91, and it is not known to which level of secrecy is this order classified. The common grain of truth is that the training did take place, although the evidence of who where the whipping boys differs.

We learned about the events in colony ЯЮ-309/70 from the letter of the inmate of this colony A.Fridson, the Chairman of the League for protecting convicts' rights, organized by the prisoners, and from the letter of N.Kovalev, the responsible secretary of the League.

The League existed from August 1994 to October 1995, and it unclosed plenty violations and facts of cruel treatment of convicts. Among them were the manoeuvres, or, rather, massive beatings of helpless convicts for training combat techniques of the special unit servicemen. This incident became known by the public, and the Region prosecutor's office had to start the criminal case. Gansovsky, an investigating officer, read the documents of the League, questioned Fridson and a number of victims of the training. This provoked a splash of prison administration activity. For the mere fact of pinning a leaflet of the League to the announcement board some members of the League were punished, and Fridson was directed to the prison in Vinnytsa, where he had to stay in prison instead of working in a colony.

Human rights protection organizations received and continue to receive many letters from penitentiary colonies where facts of tormenting convicts by OMON servicemen are described. It is impossible to verify these letters since the penitentiary system is closed for any control by outsiders. To get there for any representatives of the public is possible only with a permission of high authorities, and the latter are unwilling in general and adamant when it concerns violations of the personnel. Nonetheless, the fact that very similar letters come from all parts of the country certainly permits to draw rather obvious conclusions.

Similar reports on beating convicts by OMON were published in the press. For example, in the parliamentary newspaper «Golos Ukrainy» of 3 June 1993 an interview with a former convict Konstantin Logvinenko was published. Logvinenko depicted OMON manoeuvres:
"When OMON come to the maneuvres, all tremble, hardened criminals and the small fry. Big bulls from OMON rush into a cell, chose the beefiest, drag him to the passage and start chopping him for a couple of hours. They even don't take money to let one alone, so much their fists itch. I remember the first day, when we were transferred from the prison for minors to the one for grownups. OMON «took us for a walk». The procedure was such: bulls stood one meter one from another with clubs which they used to make us run. Along all the passages. We ran real fast. It rumors that some jailbirds were beaten to death. Who will ever know?"

We receive many similar letters. I shall give one more example. Recently the Kharkiv Group has received a letter. Here it is, verbatim:

«We turn to you because we desperately need someone's help. Maybe you can stop the mass extermination of convicts, who are still human beings. There is a colony in Zaporozhye region, UIN 310/101. It is a real concentration camp, and the facts of mass extermination can be easily verified. In the same region there is another colony, UIN 310/55, which is considered a TB hospital for convicts. The majority of patients of this hospital, ill or dying, are usually directed to our colony, while healthier people are directed to other places. On December 23 we got a shipment from UIN 55, all in all 150 people. The shipment at first was greeted by a speech where it was declared that they had come to die here. Then all of them, young and old, were ordered to lie on the ground, and then the wards started to kick them cruelly without any provocation. They found that someone brought a guitar and broke the guitar on the man's head. They strangled people with the guitar strings, broke some teeth and heads. 40 people without any reason were put to the lockup rooms. If you can, try to cease this hell. It is not difficult to learn all the details if a commission or a group of newsmen can be directed to our colony. As you understand, we cannot sign our names, but we hope that it is not important, and we hope that sooner or later this torture will be stopped.

Help us, please!!!
Convicts of UIN 310/101
P.S. May be, through mass media you will give us an address, where we shall turn with our complaints. Then our letters and those of our relatives will flow there in a torrent. Again we beg you to do anything to help us».

While reading such letters one acutely understands his impotence to help. To address a prosecutor's office is senseless: a standard scrap of paper will come that the facts have not been confirmed; in addition, these unconfirmed facts will be implacably applied to the authors of the complaint. It is impossible – alas! – to organize inspection by an independent commission. But that is the only reliable remedy. We must fight for making the penitentiary system more open and accessible for the independent control of observance of laws.

«Prava Ludyny», June, 1998

**On penitentiary system in Ukraine**

A. Bukalov, Donetsk

First, I shall give some data on my native Donetsk. For the first three months of 1998 the number of convicts grew by 1200. Now penitentiary establishments of the region house 32500 convicts. It is 6500 more than the nominal capacity and 10000 more than 10 years ago. Especially bad the things are in preliminary prisons (where suspects expect the trial). Here 6400 people are kept in the prison blocks whose nominal capacity is 3700. 156 of the dwellers of the preliminary prisons are kept longer than the law permits.

3200 have TB, more than 600 are AIDS-infected. According to the plan, 17500 must have paid work, in actual fact only 7900 have work. Only 10500 committed grave crimes. The prison administration considers that to the most of the others weaker kinds of punishment, not connected with imprisonment, can be applied, such as, for example, socially useful coerced works. But our legislators are busy with dividing their positions in the parliament, and our judges are timid to apply more liberal laws among already existing.

The situation with financing is even worse than on the free side of prison bars. The penitentiary system of Donetsk region owes 47 mln. Gr. for food and energy. On the other hand, the coal mining industry owes more than 6 mln. Gr. to the regional penitentiary system.

The above-cited data were made public at the meeting of the Donetsk Region administration.

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«Prava Ludyny», June, 1998

To where a convict, devoid of rights, can turn for help in restoring justice? Only to a newspaper, because nobody trusts the authorities.

In 1996 newspapers wrote on condemnation a mother of three children for ten years of imprisonment. She was condemned according to Article 86-1 of the Penal Code (theft of state or collective property in especially large quantity). This is a grave article: it stipulates imprisonment from 10 to 15 years.

This is an interesting question: how many people were condemned according to this article in 1995-1996 compared to other years. The answer is puzzling: the number in question soared many times. Prosecutor’s office, investigation and law enforcing officers provided the fantastic percentage of unclosed crimes. Some citizens received medals, stars on their shoulder strips, etc., and others went to the wrong side of prison bars. What can be the reason of this burst?

The first reason was the law on the minimal wages, adopted in 1993 or 1994. The money in the country were devaluated at a terrifying rate, and the minimal pay per month was set at 60, 000 coupons. In 1995-1996 one could by for the minimal pay a pack of cigarettes with filters. Article 86-1 was modified, and the theft in especially large quantity was evaluated not in money directly, but in minimal pays. According to the law, the theft became especially large when its cost exceeded 250 minimal pays, i.e. about 15 mln. of coupons, i.e. about $90 by the exchange rate in March 1996. If the theft of the state property cost less, it was punished by Article 81 which stipulated the lower limit of imprisonment equal to 7 years.

On March 1, 1996, Article 86-1 was agreed with fast devaluation, and the lower limit for the theft to be especially large was set at 500 mln. coupons. Immediately a great number of convicts appeared who stole more than 15 mln. and less than 500 mln. This category of convicts hoped that their article would be changed and their terms would be diminished. This has not happened and, it seems, would not happen.

All the materials included to this publication without indicating the author are taken from UNIAN Agency, to which the editors of «Prava Ludyny» are greatly grateful.

According to the data on 1 July of the current year, 15 colonies of the region with the total capacity of 20,200 contained 26,600, while the three preliminary prisons with the total capacity of 3,700 contained 5,300 inmates still awaiting the verdict of our slow courts. If to take into account the colonies for compulsory treatment of alcoholism, all in all there were 32,365 convicts in the region. Last year their number was approximately the same: 32,531. The last year amnesty released 4,205 convicts and 3,399 more were released on bail. During a year all these «vacancies» have been filled up. The present amnesty, as all previous ones, will not terminate the overpopulation but will for a very short term diminish it from 8 to 3 thousand extra convicts.

As Yuri Nakhay, the head of the department on surveillance from the region prosecutor's office, remarked, the present amnesty would be applied to a wider circle of inmates of the penitentiary system. For example, not only minor criminals would get a chance to be released, but also those who were below 18 years at the moment of the crime. Convicts who have parents older than 70 having no other children to support them would get a chance for freedom. If a convict has minor children, then he has the chance to be released; in the past amnesties it concerned only men who bred their children without mother. The number of articles, where the amnesty was not applied, is considerably narrowed. Now among amnestied criminals one could see smugglers, money-fakers, robbers, chisellers, racketeers, producers and pushers of drugs, rapists and those who tried to escape. On the other hand, the new prohibitions have been introduced: swindlers, connected with adopting children or trading people, making, storing and selling firearms and explosives, may not be amnestied.

Yu.Nakhay believes that the amnestied criminals are all small fry in the criminal world, so their release cannot be regarded as dangerous for the society. Nonetheless, 1705 inmates of the strict-regime colonies are expected to be amnestied. They are all recidivists. Also about 1500 inmates of the strengthened-regime colonies will be released. All these estimates are approximate; the practice shows that in the actual fact the number of the released in each category will be larger by 500-600 people. This is due to the fact that in the course of the amnesty circumstances are elucidated that permit to release more people.

Along with inmates of colonies another category of the people, whose punishment is not connected with imprisonment, will be amnestied. These are people released on bail or sentenced to coercive works. Although they are not incarcerated, they stay under a permanent control on the side of the militia, they must periodically come to precincts to be checked. Recently our courts have begun to apply such punishments much moreoften, and nowadays the number of the punished without incarceration is about 17 thousand. The last amnesty released 2571 people from militia surveillance, now about one third of this category will be released from the oversight.
Yu.Nakhay understands that the demands of the law on granting jobs to the released convicts cannot be fulfilled. At present a respectable citizen has difficulties in finding a job. How many acting enterprises will agree to hire a person with a criminal past? Local organs of the Ministry of Interior must assist the released convicts in finding jobs, but practically their efforts are fruitless. So one is not surprised when hears about such a typical case: a man leaves the repellent walls of the colony, suffers for some time without living accommodation and a job, starves and, finally, commits a crime to return to the known shelter and to the scarce but guaranteed food. He does it not because he is a born criminal, but because there is no way out of the post-release situation. In theory, the prosecutor’s office has to oversee those facets of the amnesty that concern employment. But Yu.Nakhay cannot recollect a single case when a former criminal complained to the law enforcing organs, including the prosecutor’s office. The convicts seem not to trust in these organizations.

The amnesty, beside releasing about 10,000 convicts, will touch a large category of those who will not be released, but their terms of punishment will be considerably shortened. The number of the convicts who enter this category is difficult to estimate now. The information will be more precise by the middle of November.

«Prava Ludyny», September, 1998

More incarcerated, less acquitted

Aleksandr Bukalov, Donetsk

According to the data of the Ministry of Justice, the courts of Ukraine considered 122122 criminal cases in the first half of 1998 (to compare, 232167 criminal cases were considered for the whole previous year). 125429 suspects were considered guilty (237790 for the whole 1997); 46144 were sentenced to incarceration (83396 for the whole 1997); 444 were acquitted (950 for the whole 1997).

This was done by 3558 judges who work in 742 district and town courts of Ukraine plus 1159 Femida’s servants of region courts, the Supreme court of the Crimea, city courts of Kyiv and Sebastopol.

«Prava Ludyny», October, 1998

How many people on the inside of the bars?

Yevgeniy Zakharov, Kharkiv

Ivan Shtanko, the head of the Penitentiary Department, informed that in 129 penitentiary establishments for adults, 11 colonies for minors (by the way, one of them – in Mariupol – is for girls) and 32 preliminary prisons 236,000 of convicts were kept on the 1 July. It is more than in Germany, France, Great Britain, Sweden and Bulgaria, rolled together. For comparison, five years ago the total prison population was 150,000.

The amnesty dedicated to the seventh anniversary of the state will decrease the number of incarcerated by 25-30 thousand. But one may be sure that the major part of the amnestied will soon return because they would have no job and no living accommodation at large.

A complaint of the personnel of a preliminary prison

Here we print the text of the complaint to the Kharkiv Group for human rights protection from Donetsk. The text is published verbatim.

We, workers of the preliminary prison No.1 of the city of Donetsk, turn to you, since there is no other organization to turn to. We are devoid of the right to take part in the democratic parties, public movements and trade unions. There is no one to protect our rights and freedoms.

Under current conditions, when the public opinion is focused on the needs and requests of the special contingent (convicts), we decided to turn your attention to the least protested category of toilers.

We shall begin with the absence of elementary conditions of work:

The rules of internal service are rudely violated and we carry out the continuous observation over the special contingent without observing shifts for 12 hours on end, after which we work 4-5 extra unpaid hours, searching the contingent or attending special preparation, we have no breaks and no canteen.

Our posts are not equipped with johns and washbasins which rudely violates sanitary and hygienic conditions of labor.

The guards who carry out their service on the posts of TB-infected, AIDS-infected and infected with VDs, are not given disinfectants. The disinfection of posts and cells is not carried out, so the personnel often catch TB. No money is given for treatment. The extra pay for harm is 10 grivnas for a month. We must search chambers where VD and TB patients are locked, and during searches the workers are not given any protection from infection. The posts of the sick are not isolated from the healthy.

Rations are given at increased price, with delays, by food products that are not necessary (juice). The bosses exert pressure on those who refuse to take rations, some were even sacked. Biased attitude, deprivation of personal additions to wages, ungrounded dismissals of the workers who do not agree with the administration, who are not afraid to speak about their democratic convictions, who try to protect human rights.

The personnel is forced to buy uniforms, photographic materials and stationery for their own money. Identification cards were illegally taken away, we lost the privilege for free transportation.

The money for our wages is sent to the prison in time, but the pay is given with delay.

The administration conceals facts of attacking the personnel by convicts. The attacked are fired by false cutting his duties, the guard’s hardships may cause more suffering to his «customers», still not proved guilty, but already incarcerated. Among the prison inmates there are many persons who entered prison because of the imperfection of our law and cruelty of relations in our society.

Kharkiv Group for human rights protection turned with the letter to the General Prosecutor’s office asking to check the above complaint and employ proper measures.

«Prava Ludyny», March, 1999

Some vital statistics

From the interview given by Georgiy Radov, the first vice-rector of the Institute of internal affairs, to the newspaper «Zerkalo nedeli»

The number of the incarcerated in Ukraine is 480 per 100 thousand.

The proportion of the incarcerated from those tried by court is 36% in Ukraine. To compare: in Japan it is 3%, in the Great Britain – 9%, in Sweden – 8%, in Moldova the proportion fast decreased to 20%.

In Ukrainian preliminary prisons 48 thousand are kept, and only 36% are condemned to incarceration.
The cost of upkeep of one incarcerated equals 120 grivnas per month. The food per day costs on the average 8 kopecks per head.

In January 1999 only 208 people died with the diagnosis dystrophy.

The prison economy produced up to 20% of the gross national product in the USSR. At present young able-bodied people stay in Ukrainian colonies. 47.3% of them are under 30 years of age, among them 52 thousand are younger than 25. Most of them do not work.

During the first six months of 1998 about 62 thousand were condemned to one year of incarceration, about 60 thousand – to two years. Most of them were sentenced to the conditional incarceration, some got the postponement.

Last year:
4.3 thousand were incarcerated for the term up to one year;
13.7 thousand were incarcerated for the term from one year up to two years;
26.6 thousand were incarcerated for the term from two years up to three years.

The total number of the incarcerated for the term of up to three years was 44.6 thousand or 27.3%.

In 1998 about 80 thousand criminals were released.

During recent four years 35 new establishments were open within the penitentiary system, 4 of them are preliminary prisons.

The judicial reform is skidding
Aleksandr Bukalov, Donetsk

Politicians keep making noises and persuading the Council of Europe that the judicial reform is successfully advancing together with law-applying practices. Yet the latter actually remains such as before.

As before a man suspected in committing a crime and put in the dock is found guilty almost automatically. According to the data of the Ministry of Justice, in 1998 the total number of the convicted was 232598, while the number of the non-guilty was 884 (0.38%). In the first half of 1999 the corresponding figures were 114551 and 399 (0.35%).

The most of the condemned to incarceration committed slight crimes– they were sentenced for terms not longer than three years. In the first half of 1999 their proportion is 59.26% (in 1998 it was 59.1%).

In spite of the sad fact that penitentiaries are overcrowded and the inmates have great problems with food and medication, Ukrainian judges apply incarceration as the most frequent measure of punishment (37.5% in the first half of 1999 and 37.2% in 1998).

During the first six months of the current year 8868 minors are convicted, which makes 7.74% of the total number, in 1998 the proportion was 7.8%. The proportion of the convicted women steadily oscillates about 15%.

Although the Council of Europe sternly demands to abolish the death penalty, the rate of pronouncing death penalties is not decreasing. In the first half of the current year 71 such verdicts are passed (in 1998 the figure was 131). At present about 410 criminals are awaiting execution in Ukraine.
The situation in Crimean prisons remains difficult.

R. Romanov, Sebastopol

On 17 June in the House of the government a conference of the Coordinating Committee for fight with corruption and organized crime was held, chaired by the Prime-Minister of the Crimea Sergey Kunitsyn. Among the questions discussed at the conference one should point out the problem of the survival of the Crimean penitentiaries. As Vasily Loban, the deputy head of the penitentiary system of Ukraine, said, the situation in the Crimean penitentiary establishments remains very complicated. By the state on 1 April there are more than five thousand inmates, in particular, about three thousand in the preliminary prison in Simferopol, which exceeds the capacity in 1.5 – 2 times. Because of the insufficient financing, the critical situation arose with purchasing and transportation of food products, medication, and communal services. Every fifth incarcerated is ill with TB of different forms, among them more than one hundred people are ill in the open form. There are 43 people who are AIDS-infected. The mortality among the incarcerated grows steadily. There is a grave necessity to continue the construction of the preliminary prison in Kerch, which was suspended in 1996 because of the lack of finances. Sergey Kunitsyn suggested to assess the work of the administration of preliminary prison in Simferopol as inadequate, since they could solve many questions themselves, without the interference of the coordinating committee.

«Prava Ludyny», June, 1999

Some opinions on and some details of prison life

An article reprinted from «Vecherniy Zhytomir», No.13, 1999

In September 1998 M.Brodskiy, a member of the Parliamentary Committee on legal questions of the activity of law-enforcing agencies, suggested a draft of law «On amending the Penal Code of Ukraine» to the Supreme Rada. In particular, M.Brodskiy suggested to introduce to the Penal Code an article about torture, to define the notion of torture and to introduce rather grave punishments to those who apply physical and moral torture. That it was M.Brodskiy who suggested this law is perhaps not accidental, because he himself had stayed behind the bars of Zhytomir preliminary prison.

Perhaps it is not accidental that the Ukrainian secret service and the Ministry of Justice protest against the introduction of the punishment for torture to the Penal Code. The routine violations of the international documents are numerous. For example, according to Article 74 of the Correcting Labor Code, each convict in a colony must have not less than 2 square meters of floor space; in the prison the limit is 2.5 square meters (by the way, a dead body on the graveyard has much more); this very modest norm is normally violated. In accordance with the Rules of internal order, not more than 1800 convicts may be kept in a strict regime colony, but in reality the number of the inmates is more than 2300. According to Section 11 of the mentioned Rules, one water tap in a washing room must be for 10 people, in reality they have one tap for 30 – 40 people. In reality 350 – 400 people must wash themselves and their clothes under 20 showers during 2 hours. Only this can be qualified as torture. This condition results in the abundance of lice and scab. Another plague is fast expansion of TB. To protect themselves from this disease convicts mugs kept their own mugs. Then the mugs were confiscated and put to the common use in the canteen. The confiscation was explained by the shortage of mugs. The punishments applied are certainly degrading. For example, a convict is made to stand in five feet from the wall with his feet as wide apart as he can stretch them, leaning against the wall with hands wide apart; in this posture the punished is made to stand for hours. A detachment of convicts (100 – 120 people) can be made to march in a circle in the prison yard under rain, snow or scorching sun. The convicts having just returned from the work and having the right for rest are forced to march as well. Such «correcting measures» are frequently used by detachment commanders L.Galichev, P.Tychyna and Yu.Bugayev.

However, the described conditions look like a sanitarium compared to those in the detention block of Bogunskiy precinct. The block contains ten cells of different size accommodating from 2 to 20 inmates. The walls and floors are made of cement. In the non-aired cell there stands an open toilet seat. The density of the blocks of militia precincts), a preliminary prison and a colony of strict regime. The editorial board turned to a man who passed through all of them and asked him to describe the conditions. He agreed, but he asked to remain anonymous, since his «confession» could harm several people who are still in the penitentiaries.

The upkeep of the incarcerated in the above-mentioned penitentiaries is directed by several laws and sublegal acts, among them the Ukrainian law on preliminary incarceration, the Correcting Labor Code, the Rules of internal order and several others. They blatantly disagree with many international legal norms and, in particular, with the UNO Convention against torture and other inhumane or degrading treatment and punishments, as well as with the European Convention on protection of human rights and freedoms ratified by Ukraine. Besides, they disagree with the operating Constitution, in particular with Articles 22, 28, 31, 43, 63 and others.

In addition these far from liberal acts are rudely violated by the Ministry and administration. This perhaps made the Ukrainian security service and the Ministry of Justice protest against the introduction of the punishment for torture to the Penal Code. The routine violations of the international documents are numerous. For example, according to Article 74 of the Correcting Labor Code, each convict in a colony must have not less than 2 square meters of floor space; in the prison the limit is 2.5 square meters (by the way, a dead body on the graveyard has much more); this very modest norm is normally violated. In accordance with the Rules of internal order, not more than 1800 convicts may be kept in a strict regime colony, but in reality the number of the inmates is more than 2300. According to Section 11 of the mentioned Rules, one water tap in a washing room must be for 10 people, in reality they have one tap for 30 – 40 people. In reality 350 – 400 people must wash themselves and their clothes under 20 showers during 2 hours. Only this can be qualified as torture. This condition results in the abundance of lice and scab. Another plague is fast expansion of TB. To protect themselves from this disease convicts mugs kept their own mugs. Then the mugs were confiscated and put to the common use in the canteen. The confiscation was explained by the shortage of mugs. The punishments applied are certainly degrading. For example, a convict is made to stand in five feet from the wall with his feet as wide apart as he can stretch them, leaning against the wall with hands wide apart; in this posture the punished is made to stand for hours. A detachment of convicts (100 – 120 people) can be made to march in a circle in the prison yard under rain, snow or scorching sun. The convicts having just returned from the work and having the right for rest are forced to march as well. Such «correcting measures» are frequently used by detachment commanders L.Galichev, P.Tychyna and Yu.Bugayev.

However, the described conditions look like a sanitarium compared to those in the detention block of Bogunskiy precinct. The block contains ten cells of different size accommodating from 2 to 20 inmates. The walls and floors are made of cement. In the non-aired cell there stands an open toilet seat. The density of the...
population is such, that it is possible either to stand or to seat on the floor, since there is no room for walking. In bigger cells, instead of berths, there is a platform, called «dais» on which the convicts sleep as sardines in a tin (if there is enough place, otherwise they sleep, sitting or lying, on the filthy concrete floor), bed-clothes are certainly not available. In summer, when in the non-ventilated tobacco smoke filled cell the air becomes unbearably stuffy and stale, the convicts sweat and take off all their rags, the «dais» becomes filthy and sticky from sweat and stenches even stronger than the open toilet seat. The «dais» is wiped during cleaning of the cell with the same rag which is used for washing the floor and the toilet seat. The toilet seat tank is controlled from the outside, from the passage, and in order to wash down its content one must call the militiaman on duty. Will he pull the handle and when depends on his whim. Once a day the cell population is taken out for ten minutes for washing. Certainly, neither soap nor towels are given. The drinking water is raw, it is brought in a big basin from which the thirsty drink without mugs. Under such conditions it is near to impossible not to catch a disease. It is easy to fancy what the sick feel, staying round the clock in the overcrowded, non-ventilated concrete box full of stench and smoke, through which an electric bulb dimly shines at night and day time. Add here alcoholic delirium and abstinence sufferings of some convicts, fat lice, unhurriedly crawling upon the «dais», brought by non-stop scratching tramps, and fancy yourself inside such a cell.

Is it surprising that normal people are ready to sign absolutely all accusations, not thinking about the consequences. Everyone wants to get out of this hell as soon as possible, undoubtedly this hell is organized deliberately just to force the suspects to confess. If this measure does not help, there are lots of auxiliary methods, starting with a primitive beating and ending in sophisticated tortures, after which a human being becomes an invalid, and not only a moral one. Such facts were described in detail in the newspaper «Kiyevskie vedomosti» of 12 January 1998. As to the possibility to turn to an advocate under such conditions, you may recollect the case of Brodskiy. Even to him, a well-known public figure, advocates could not break through.

Even the preliminary prison, compared to the detention block, seems a paradise. There they give bed clothes, permit to have radio and TV, toiletries, and stationery, they have a daily walk and weekly bath. Still it is not quite the paradise. There stands an open toilet seat in the cell and concrete floors, although by Section 12 of the Rules of internal order the floors must be covered with planks. As to having bath, it is done under 3 – 4 showers during 15 – 20 minutes for 30 – 35 convicts. They have a choice: either wash themselves or their underwear, which is dried inside the cell to render better conditions for developing TB. Theoretically they have medical aid, but there is a shortage of drugs. They have library service – one book per one month per one head. The books are worth the service. The medicinal drugs brought by relatives pass to the sanitary department, and receiving drugs requires a long bureaucratic procedure. It can take two days for obtaining one pill. The food, both in quantity and quality, would make a pig die of indigestion. The convicts survive as a rule, but they get gastritis, stomach ulcer and the like. Since cells are overcrowded, convicts walk along a wall in turns, and for the most inmates the turn never comes. During the so-called walk people mostly stand, because the floor space of the walking yards is 15 – 20 square meters, so 30 – 35 people cannot walk around, or they walk in turns. People who stay in preliminary prisons for 5 – 6 months suffer from muscle dystrophy, but there are the unfortunates who spend in the prison two years or more.

Both in detention blocks and in the preliminary prison rubber clubs are frequently used. Besides, at any moment the convicts can be taken out of the cell, and then a total search, the notorious «perem», is carried out, after which only the walls and the berths welded to the floor stand on the previous places. All other belongings are piled in the corner maximally shuffled. Idle and curious convicts computed that 30 – 50 cockroaches fall to the share of one convict. Nonetheless, plastic bags are forbidden, perhaps to facilitate the approach of cockroaches to food reserves. The citizens of Ukraine are kept in these inhuman conditions, although their guilt is not proved yet, and some of them will be released either by court or before it.

How can one speak about the «right for legal protection» if in the preliminary prison with about 2000 inmates, there is only one cubicle for lawyers. It should be added that communication through letters is forbidden and during 2 – 3 years a convict does not see his relatives and friends, may not write to them and may not receive a letter. Besides, a stool-pigeon is present in each cell, who tries to learn details of the alleged crimes. Certainly, it is the work of professionals to choose the ODA methods, but these methods must be legal. The stool-pigeons are usually convicts already condemned by court, and the joint upkeep of them with suspects is forbidden by law. It seems that the prison administration and prosecutor’s office try to forget this rule.

In all colonies, including Zhytomir one, the situation is created when practically all actions of a convict can be called a «violation of the regime»: wrinkles on the blanket, being late to morning exercises, keeping hands in pockets, bare head, etc. Because of such «serious violations of the regime» a convict is punished by exclusion from those released conditionally before the full term, or from the list of the directed to the colony-settlement. Prison guards unearth such violations with the zeal worth of better application. Some comb the barracks watching those who did not go to the meal, others catch those «order breakers», who dared to take a slice of bread from the ration of those who did not come to the canteen. This is a serious and frequent violation of order. Something positive must be said about the prison administration. Even in our difficult times Zhytomir prison (in contrast to the majority of similar penitentiaries) has still retained three meals per day. Certainly, the food is inadequate, the necessary additional sources of food are parcels from outside, but the administration sternly restricts the number and weight of the parcels. To compensate the starvation the convicts are driven daily to the yard to do morning exercises with the musi-
convicts cannot relieve themselves before morning exercises, so all are awakened 10 – 15 minutes before the reveille, although the prison rules promise eight-hour sleep. Call up is done thrice in daytime, six minutes before the reveille, although the prison rules promise fore morning exercises, so all are awakened 10 – 15 minutes before the reveille. But not a single warden has ever refused to take new shipment of convicts arriving to the colony is met with orchestra. The prisons are overcrowded contrary to the law. Many other prison rules are also violated. For example, Section 35 Part 4 reads that «the duration of a short meeting of a convict with his visitor may not be less then 2 hours». In reality it lasts about one hour or less. «A long meeting must last 24 hours», but in reality a convict is led to the meeting at 13:30 – 14:00 and is led away at 10:00 next morning. The usual explanations are that there are no rooms, no opportunity, etc. But the most convicts also had no opportunity to find a job and feed their families, so they had to steal. Courts, however, did not take into consideration these mitigating circumstances and condemned the thieves: some for stealing a hen, some for stealing three meters of pipe, some for a bucket of potatoes.

The prisons are overcrowded contrary to the law. But not a single warden has ever refused to take new convicts, although, according to Article 60 of the Constitution of Ukraine, he has the right to disobey orders contradicting the law. Moreover, each new shipment of convicts arriving to the colony is met with orchestra.

That will be a great pity if the Supreme Rada does not accept the article about torture to the Penal Code.

**PL commentary.** We reprinted this article (in a slightly abridged form) from the newspaper «Vecherniy Zhytomir», since the conditions of upkeep in other prisons are very similar. The editorial board of «Vecherniy Zhytomir» informed that the newspaper possess a lot of auxiliary information concerning the facts described in this article.

«Prava Ludyny», July, 1999

**State report of Ukraine on prison conditions is considered unacceptable in the Council of Europe**

The Ukrainian ombudsperson Nina Karpachova informed that the Council of Europe Committee against torture considered unacceptable the state report of Ukraine on the prison conditions. This is the first state report of Ukraine prepared according to the demands of the European Convention against torture, which was ratified by Ukraine. The Convention stipulates monitoring in the state-members with the aim of prevention of all kinds of torture and inhumane or degrading treatment and punishments.

The Committee pointed out that the overcrowdedness of penitentiaries, anti-sanitary conditions, epidemics of TB and skin diseases, mass dystrophy of Ukrainian convicts are unacceptable. As Nina Karpachova said, the report which had been prepared secretly, considerably disagreed with the observations of the Committee inspectors, who attended Ukrainian penitentiaries in 1998. Ukraine got recommendations how to correct the situation. If the recommendations are not fulfilled, the observations of the inspectors will be published.

On 11 September two years have passed since the European Convention on protection of rights and main freedoms of man have come into effect in Ukraine. During this time 1132 complaints came to the European Court from Ukraine. Many of them concern the conditions of upkeep of convicts condemned to death. The ombudsperson said, in particular, that 2 complaints came from the preliminary prison of Ivano-Frankivsk, 1 from Khmelnitskiy prison, 1 from Zaporozhye and 2 from Simferopol.

**Our informant**

«Prava Ludyny», September, 1999

Penal policy towards minors in the countries of Middle and Eastern Europe and Middle Asia

A Bukaiov, Donetsk

In the countries of Middle and Eastern Europe and Middle Asia the penal policy towards minors substantially differs. It is influenced by national traditions and by opinions of the political leadership as to reforming penitentiary systems of these countries. These differences are clearly visible in the number of minors kept in the penitentiaries.

In order to characterize each country we shall use two indicators: the number of minors in the penitentiaries per 100 thousand population and the number of convicted minors per one thousand of convicts. The statistical information on these parameters is given in the following table.

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<th>Country</th>
<th>Total number of convicts, in thousands</th>
<th>Number of convicted minors</th>
<th>Number of convicted minors per 100000 population</th>
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<td>999</td>
<td>40000</td>
<td>27</td>
<td>4</td>
</tr>
<tr>
<td>Belarus</td>
<td>58.3</td>
<td>2000</td>
<td>20</td>
<td>3.4</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>20</td>
<td>800</td>
<td>17</td>
<td>4</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>55</td>
<td>2000</td>
<td>10</td>
<td>36</td>
</tr>
</tbody>
</table>
* up to 24 years of age
** up to 21 years of age

It follows from the table that the listed countries may be subdivided into three groups.

The first group consists of Transcaucasian countries, Bulgaria, Bosnia and Herzegovina. In these countries not more than 150 minors stay in prisons. Their proportion in the total number of convicts is negligible. In Bosnia and Herzegovina only 2 youths are convicted and 10 are the objects of the ODA. They are kept either in the only reformatory or in the special department of the colony for adults.

The composition of the second group, for which our indexes are neither too large nor small, may seem rather unexpected. This group contains Tadjikistan, Mongolia, Kazakhstan, Ukraine and Czechia. In these countries the number of minor convicts for 100 thousand population does not exceed 7. the proportion of minors in the total prison population is also not large: from 1.3% in Kazakhstan to 2.4% in Tadjikistan and Czechia. In Kazakhstan there are only 3 reformatories, in Ukraine — 11 reformatories, one of which is for girls (their number is 190). In Czechia those under investigation count 350 (339 youths and 11 girls) from the total number of 522. The rest, already convicted, contains only 5 girls.

The third group is rather diverse as to its composition. The proportion of convicted minors per 100 thousand of population is rather high — from 11 in Romania to 13 in Estonia, 20 in Belarus and 27 in Russia. The data for Uzbekistan are counted only relative to the already convicted, if to add those who are under ODA, the index can grow by 1.5 — 2 times. For Moldova and Poland the indexes are higher because they have another age level for minors. Before the introduction of the new Penal-Executive Code the upper level was 21, not 24 years of age, and then the number of the minors was almost twice less.

The ratio of the convicted and those who are under investigation is different in different countries: in Poland those under ODA make 30% of the total, in Russia — about 50%, in Estonia — 60%. The data on those under ODA is unreliable in Uzbekistan, Belarus and Turkmenistan.

The data presented enable us to evaluate the situation in Ukraine compared with those in the countries with similar social, economic and political conditions.

*(In preparing the quoted materials we used the data obtained by «Donetsk Memorial» and Penal Reform International, the Great Britain)*

A.Volin

As to punishment, Ukraine looks crueler than her neighbors

As before, a person, which never dealt with convicts, will have difficulties to fancy how immense is the Ukrainian penitentiary system. Today we have 183 penitentiary establishments: 128 reforming-labor colonies, 11 reformatory-labor colonies, 32 preliminary prisons, 12 curing-labor hospitals and 5 special TB hospitals. In these places 226 thousand people are kept. In order to keep order among criminals they are guarded by about 50 thousand guards and wardens. At the apex of this pyramid is situated the recently created State Department in penitentiary system.

The worse our life becomes, the larger number of criminals appear. This is a banal truth confirmed many times in many places, and Ukraine makes no exceptions. Social studies confirm: when unemployment grows by 1% the total criminality grows by 6%, and among unemployed youth as much as by 11%.

While in 1988 about 30 thousand appeared behind the bars, then in the last, 1998, the harvest was 86437 (44.7% of them appeared to be recidivists). So, 10 years trebled the number of convicts. Certainly, the argument «militia works three times better» is untrue. The Ukrainian courts doggedly reject to apply alternative punishments. In this respect Ukraine looks more cruel than our neighbors. This year 37.2% of all convicted got to penitentiaries. Russia and Moldova sent behind the bars 32.7% and 20.8%, respectively. In the countries of the Western Europe the average indicator is 7%. Another sad conclusion follows from these figures. About two thirds of people, who inhabited the preliminary prisons, appeared non-guilty: after several months of the incarceration they are released since their guilt has not been proved.

50 thousand are given prison terms less than 3 years — in most countries people are not imprisoned for such terms at all. Perhaps, Ukraine is rich enough to afford improving qualification of criminals in prison cells.

The following table gives the dynamics of such short-term incarcerations.

**The number of the incarcerated for the term up to 3 years in Ukraine**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>25446</td>
</tr>
<tr>
<td>1993</td>
<td>30524</td>
</tr>
<tr>
<td>1994</td>
<td>37122</td>
</tr>
<tr>
<td>1995</td>
<td>39100</td>
</tr>
<tr>
<td>1996</td>
<td>45971</td>
</tr>
<tr>
<td>1997</td>
<td>49145</td>
</tr>
<tr>
<td>1998</td>
<td>51061</td>
</tr>
</tbody>
</table>

Note: The articles of the Penal Code of Ukraine, according to which 70% were convicted, permit judges to apply conditional punishment except incarceration.

«Prava Ludyny», November, 1999

G ood intentions are better than court practice

A.Bukalov, Donetsk

While politicians reason about the necessity to carry out the court reform in Ukraine and try, without special successes, to convince the Council of Europe in the «substantial progress», the court practice in our country remains unchanged.

As before, a person suspected in committing a crime and tried at court is considered guilty almost automatically. According to the data of the Ministry of Justice of
Ukraine, in 1998 from the total number of 232,598 brought to court only 884 (0.38%) were acquitted. In the first half of 1999 the proportion of the acquitted was even less: 399 out of 114,551 (0.35%).

People who committed not grave offences make the majority among the condemned. Such people who were incarcerated for the term up to three years counted 25,468 out of the total number 42,977 or 59.26% in the first half of 1999 (in 1998 it was 59.1%).

The number of those who got delayed verdicts made 26,081, i.e. 22.8% (in 1998 it was 21.6%), 5,224 were fined, i.e. 4.56% (in 1998 it was 5.96%).

Although the penitentiaries are overcrowded and have grave problems with the provision of food and medicines, the main punishment in Ukraine remains incarceration (37.5% in 1999 and 37.2% in 1998).

In the first half of 1999 8,868 minors were convicted, i.e. 7.74% of the total number of the convicted of all ages (in 1998 it was 7.8%); 2,192 of them were incarcerated, i.e. 24.7% (in 1998 it was 27.2%). Almost 15% of the convicted are women – 17,044.

In spite of the stern demands of the Council of Europe concerning the death penalty in Ukraine, the rate of convictions to death is not decreased. In the first half of 1999 71 criminals were condemned to death, i.e. 0.062% of the convicted (in 1998 it was 0.056%). At present about 410 criminals are expecting the execution.

Table 1, it was 86.4 thousand (37.2%). The new Penal Code, which could permit judges to apply alternative measures of punishment, has not been adopted yet. However, the existing PC also permits to apply the alternative measures, but, alas, our courts do not make use of these restricted facilities. It is true that the application of delayed and conditional verdicts is slightly growing, but it certainly cannot recompense the essential (more than by two times) reduction of application fines.

The number of condemned minors remains practically unchanged, although a small reduction is observed in the number of the incarcerated in 1999, compared with the previous year. At the same time, the immense absolute number – more than 9 thousand of minors for the last two years – is disturbing: who knows what proportion of them will be reformed after the incarceration and what proportion will become hardened criminals. I am afraid that when scores of thousands of youths return, our life will not become safer.

In 1999 slightly diminished but still remains enormous the number of convicted women: more than 67 thousand for two last years. One of the most alarming figures in the table is the number of condemned to incarceration for the term up to three years. Lately this proportion is sure 57 – 59%. This means that our penitentiaries get about 50 thousand inmates condemned for petty crimes. Many specialists, including workers of the penitentiary establishments, appear hostages of this short-sighted court practice. This specialists are sure that most of such culprits could be punished by alternative methods. As the result, many thousands of families would be preserved and many thousands of tragedies would be prevented.

Unfortunately, nobody has counted great financial damages inflicted to our beggarly state by such punishments. Very often the material damage caused by these people is infinitesimal compared to the cost of their upkeep in a colony during two or three years. Nowadays, the inmates of colonies are, as a rule, jobless. Thus, the upkeep of the army, consisting of almost 100 thousand parasites, lies on the weal shoulders of the Ukrainian economy. I do not risk to discuss the question what was the cause of their crimes: criminal nature or misery, often an attempt to save themselves from starvation.

The archaic and inhumane nature of the Ukrainian system of crime justice are proved by two kinds of figures in the table. First is the unnaturally low number of «not guilty» verdicts –less then one thousand a year. This means that if someone got into the jaws of the juridical machine, then the victim will be found guilty of something. The second alarming figure is the number of death penalties. In spite of the obligation of Ukraine to terminate absolute punishments in 1995, in spite of the stormy public discussions and in spite of the multiple reproaches of the Council of Europe, at last in spite of the moratorium on execution of death verdicts, our courts continued to rule about 120 – 130 death verdicts a year. Analyzing the situation one gets an awful impression that our judicial system does not react to reality.
Among them number of the incarcerated from 1 year to 2
number of the incarcerated from 2 years to 3
total number of the incarcerated up to 3 years
% of the incarcerated up to 3 years
number of 'non-guilty' verdicts
% of the total number of the condemned
number of death verdicts

Table 2

<table>
<thead>
<tr>
<th>1997</th>
<th>1998</th>
<th>1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of the condemned</td>
<td>257,790</td>
<td>232,598</td>
</tr>
<tr>
<td>Among them number of the incarcerated, persons</td>
<td>85,396</td>
<td>86,437</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>33.13</td>
<td>37.16</td>
</tr>
<tr>
<td>delayed verdicts, % of the total number of the condemned</td>
<td>19.4</td>
<td>21.63</td>
</tr>
<tr>
<td>conditional verdicts, %</td>
<td>no data</td>
<td>18.72</td>
</tr>
<tr>
<td>fines, %</td>
<td>9.04</td>
<td>5.96</td>
</tr>
<tr>
<td>number of the condemned minors, persons</td>
<td>no data</td>
<td>18,165</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>7.81</td>
<td>7.94</td>
</tr>
<tr>
<td>Among them number of the incarcerated from 1 year to 2, persons</td>
<td>4,945</td>
<td>4,444</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>5.72</td>
<td>5.33</td>
</tr>
<tr>
<td>number of the condemned from 2 years to 3</td>
<td>27.2</td>
<td>25.2</td>
</tr>
<tr>
<td>total number of the incarcerated up to 3 years</td>
<td>49,145</td>
<td>49,032</td>
</tr>
<tr>
<td>% of the incarcerated up to 3 years</td>
<td>57.5</td>
<td>59.07</td>
</tr>
<tr>
<td>number of 'non-guilty' verdicts</td>
<td>no data</td>
<td>884</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>0.34</td>
<td>0.34</td>
</tr>
<tr>
<td>number of death verdicts</td>
<td>128</td>
<td>131</td>
</tr>
</tbody>
</table>

«Donetsk memorial» has some data for 1999 on separate oblasts provided by the Directorate of Justice. These data enable comparison of the work of courts in three regions of Ukraine: in the West (Lviv oblast), in the east (Donetsk oblast) and in the North (Chernigiv oblast). These data are presented in Table 2. The first striking feature is the number of condemned to incarceration divided by 100 thousand of the population. In the Donetsk oblast incarceration is 1.77 times more frequent than in the Lviv oblast, 1.5 times more than in the Chernigiv oblast and 1.25 times more as the mean index in Ukraine. The unexplainable rigor of the Donbass judges is reflected in another index – the proportion of the incarcerated in the total number of the condemned. It is 42% in the Donbass vs. 33 – 34% in the North and in the West. The number of minors condemned to incarceration is also larger in the Donbass. On the contrary, the culprits are fined more often in the West and in the North of Ukraine. The probability to be acquitted is also larger there. Besides, in 1999 no death penalties were ruled in these more humane regions. These data enable us to suppose that the majority of 120 death penalties were ruled in the East Ukraine too.

<table>
<thead>
<tr>
<th></th>
<th>Ukraine</th>
<th>Lviv oblast</th>
<th>Chernigiv oblast</th>
<th>Donetsk oblast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of the condemned</td>
<td>222,239</td>
<td>8,639</td>
<td>5,675</td>
<td>25,237</td>
</tr>
<tr>
<td>Among them number of the incarcerated, persons</td>
<td>83,399</td>
<td>3,008</td>
<td>1,906</td>
<td>10,597</td>
</tr>
<tr>
<td>% of the total number of the condemned per 100,000 population</td>
<td>37.53</td>
<td>34.82</td>
<td>33.59</td>
<td>42.0</td>
</tr>
<tr>
<td>number of the incarcerated</td>
<td>168</td>
<td>120</td>
<td>140</td>
<td>212</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>delayed verdicts, %</td>
<td>22.07</td>
<td>24.3</td>
<td>24.42</td>
</tr>
<tr>
<td>conditional verdicts, %</td>
<td>21.16</td>
<td>10.15</td>
<td>16.60</td>
<td>15.10</td>
</tr>
<tr>
<td>fines, %</td>
<td>3.95</td>
<td>6.24</td>
<td>4.30</td>
<td>3.45</td>
</tr>
<tr>
<td>number of the condemned minors, persons</td>
<td>17,652</td>
<td>677</td>
<td>438</td>
<td>2,057</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>7.94</td>
<td>7.84</td>
<td>7.72</td>
<td>8.15</td>
</tr>
<tr>
<td>Among them number of the incarcerated up to 1 year, persons</td>
<td>4,444</td>
<td>170</td>
<td>no data</td>
<td>no data</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>5.33</td>
<td>5.65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>number of the condemned minors, persons</td>
<td>32,175</td>
<td>1,238</td>
<td>783</td>
<td>3,634</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>14.48</td>
<td>14.33</td>
<td>13.80</td>
<td>14.40</td>
</tr>
<tr>
<td>number of the incarcerated up to 1 year, persons</td>
<td>12,704</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>number of the incarcerated from 1 year to 2, persons</td>
<td>15,786</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>number of the incarcerated from 2 years to 3, persons</td>
<td>20,542</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>total number of the incarcerated up to 3 years</td>
<td>49,032</td>
<td>2,031</td>
<td>1,095</td>
<td>5,367</td>
</tr>
<tr>
<td>% of the incarcerated up to 3 years</td>
<td>58.79</td>
<td>67.52</td>
<td>57.45</td>
<td>50.6</td>
</tr>
<tr>
<td>number of 'non-guilty' verdicts</td>
<td>774</td>
<td>36</td>
<td>34</td>
<td>91</td>
</tr>
<tr>
<td>% of the total number of the condemned</td>
<td>0.348</td>
<td>0.42</td>
<td>0.60</td>
<td>0.36</td>
</tr>
<tr>
<td>number of death verdicts</td>
<td>120</td>
<td>0</td>
<td>0</td>
<td>no data</td>
</tr>
</tbody>
</table>

All these differences do not change the total picture of the system of punishments in our country. This system remains too cruel, this system cannot diminish the crime level in the country. The system remains the cruel tool of revenge instead of the system, whose main function is to guarantee safety. Any delay to reform it radically and move in the direction of the standards offered by the Council of Europe threatens the society by material and moral losses.

«Prava Ludyny», February, 2000
No body bears responsibility for medical aid in preliminary prisons

A letter from behind the bars

I, Vadim A. Rodnianskiy, have stayed in the preliminary prison No. 13 since February this year. I am directed here by the Vatutinskiy district court of Kyiv.

In the small hours in the morning of 13 February an incident occurred in cell No. 178, as a result of which I got a cerebral trauma and lost my left eye.

Since then I turned to our medical workers more than once with a written request to undergo a complete examination, to invite an ophthalmologist and neuro-pathist and to render me the necessary medical aid. Up to now all my requests are ignored.

The state of my health is fast deteriorating: blood and pus permanently soak from my eye-socket, my temperature is always high, I have headache, nausea, more than once I fainted. In 1989-90 I underwent two very complicated operations on my eyes (cherothomia and scleroplastics). Obviously, due to the trauma I lost my left eye, and the seams on my right eye widened. As a result I am loosing my eyesight completely.

Besides, the lack of treatment of my cerebral brain trauma may bring about irreversible consequences.

Writing this complaint, I want to attract attention to the fact that all the responsibility for my life and health lies upon the administration of the preliminary prison No. 13.

I demand to examine the state of health and to hospitalize me immediately.

17 September 2000

Prava Ludynye, October, 2000

Amnesty-2000: cardinal changes in the penitentiary policy are needed

Aleksandr Bukalov, Donetsk

Perhaps the word AMNESTY is the most beautiful word for all the incarcerated. Several years ago three amnesties per year were conducted in Ukraine. Now, after the adoption of the corresponding law, it happens like birthday – once a year.

At a first glance, an amnesty is undoubtedly a positive event. However, if one considers the reasons and consequences of an amnesty, then it looks not so positive.

The words about humane state look rather cynical, if one tries to answer the question: why and to whom an amnesty is applied. Pre-term releases from punishment get those, who committed petty crimes. From the viewpoint of the incarcerated this means that an amnesty is applied to those, who could be convicted alternatively, without incarceration.

But the state (a humane state!) in the person of the judge decided to imprison the criminal. It separated him from the family and sent him to the company of criminals much more hardened than himself, to the conditions, where food is inadequate, where TB and other dangerous diseases reign without the opposition of the proper medical aid, where the cells are always overcrowded. Yet, every summer our country that wasted significant sums to upkeep the incarcerated is overwhelmed with humanism. And the state releases tens of thousands people. They all lost something essential: a family, job, and many of them acquired AIDS, TB and criminal habits and skills. An original humanism!

We remind, that about 80 thousand people are condemned to incarceration every year in Ukraine; about 59% (50 thousand) are get terms not larger than three years, that is they are incarcerated for petty crimes. This very category of offenders is mainly amnestied.

The amnesty statistics for recent years looks as follows.

In 1998 according to the amnesty 38500 persons were released from penitentiaries, next year the figure was about 19 thousand.

In 2000 the amnesty was conducted from 1 June to 31 August. According to the data of the State Penitentiary Directorate, cases of 38988 people were considered during this period. In particular, by court decisions: the number of the released was 11944, among them 942 women (the total number of the incarcerated women is 10 thousand);

2192 people got shortened terms of imprisonment;

lift of the punishment not connected with incarceration 23420 people, among them 7831 women;

the amnesty was not applied to 1432 brazen breakers of discipline.

According to the Law on the amnesty, the number of the released consisted of the following groups:

173 minors (the total number of incarcerated minors is about 3000);

494 persons having minor or handicapped children, 36 persons, who have parents older than 70 or parents-invalids of the 1st group, who need care

55 old-age persons

60 invalids of 1st and 2nd groups

19 war veterans

33 rescuers of the Chernobyl catastrophe

755 ill with active form TB.

The Penitentiary Directorate developed and applied some procedures to facilitate finding jobs for the released. Local authorities were informed about every amnestied person for granting aid in getting residence and job.

As a result of these efforts, by the state of 1 September 2000, 6.7 thousand of the amnestied got propiska (residence permission), 3.4 thousand got jobs, among them 423 got jobs through labor registry offices. It is not difficult to count the opposite: the number of jobless and having no propiska. Where are they? What are they doing? How do they find food? It can be only guessed.

The amnesty of 2000 did not affect much the overcrowdness of penitentiaries. The number of the incarcerated by the end of the amnesty grew by 5%. Certainly, the overcrowdness would be even greater without the amnesty.

It is obvious from long ago that to diminish the load of the penitentiaries is possible only after the cardinal change in the punishment policy. First of all, it is necessary to increase the number of verdicts not related with the incarceration: fines, conditional incarceration, public works.
The society will benefit from it, and the penitentiary personnel will terminate to be hostages of the archaic court practices.

*Pravy Ludyny*, January, 2001

Penitentiary system of Ukraine is reforming

I. Shhtanko, the head of the State penitentiary Department of Ukraine

The State penitentiary Department of Ukraine was created by President's decree of 22 April 1998 on the base of the Main penitentiary Directorate of the Ministry of Interior of Ukraine. Since 12 March 1999 it functions as a autonomous central agency of the executive power, which realizes the united penitentiary policy of the state.

By 1 January 2001 in 222,3 thousand people were kept in 180 establishments of the Department, in particular, 171 thousand in 128 correcting colonies and 3.3 thousand of minors in 11 reformatory colonies. 46.2 thousand were kept in 32 preliminary prisons waiting for their trials, 1.8 thousand – in 8 alcoholism treatment colonies. Besides, the Department is in charge of punishment not connected with incarceration, 136.4 thousand people.

During 2000 the penitentiary system accepted 75 thousand recidivists, 64 thousand prisoners were released.

The number of the personnel of the Department is 48.1 thousand.

The preparation of the personnel of the Department is done in Chernigiv juridical school and Dneprodzerzhinsk school for basic training of personnel. Besides, in 2001 another school in Belaya Tserkov is planned to be opened.

The goal of a punishment is not only a penalty for the committed crime, but also the prevention of further crimes, shaping of such attitude of the punished, which will give them the opportunity to return to normal social life.

The achievement of this goal is impossible without an active support of the public. This is one of the main principles of our penitentiary policy, which is stipulated by Article 9 of the reforming Code of Ukraine. The thesis of the public participation in reforming the punished is certainly not new. In the previous years the labor collectives often established patronage of reforming colonies, observing commissions carried out the public control over the work of the colonies. But the time passes and the past forms do not always answer the present day demands.

Some reforms in the punishment policy and democratic processes in the penitentiary system made the punitive establishments more open for public.

The activities of human rights protection organizations are a qualitatively new phenomenon in the process of the public control. Mutual relations between the penitentiary administration and human rights protection organizations have already passed the phase of protests and total criticism to the constructive cooperation.

The Penitentiary Department works hand by hand with the International Foundation «Vidrodjennia» in the fulfillment of the program «In encouraging the reform of the penitentiary system in Ukraine». The program supports the realization of public initiatives directed at the process of reforming the penitentiary system in Ukraine towards its humanization, concordance with international standards, greater transparency, increasing the professional level of the system personnel. The Department, the Foundation and the institute «Open Society» (Budapest) signed a joint Memorandum, which determines mutual efforts directed at positive changes in the Department activities and the development of the Department cooperation with NGOs.

In 2000 the Foundation organized a competition of projects, in which 36 NGOs participated. 14 projects were supported by the decision of the state department. 10 of them are realized directly in penitentiary establishments of the Donetsk, Dnipropetrovsk, Zaporozhye, Kyiv, Lviv, Odessa, Poltava, Kharkiv, Kherson and Chernigiv oblasts. Owing to the help of the International Foundation «Vidrodjennia» fruitful cooperation of penitentiary agencies and establishments with public organizations has developed.

The religious outlook is an important factor in the successful moral reforming of convicts. That is why the conditions for participation of church servants are created in penitentiary establishments. During recent years rooms or even chapels for praying were open in all penitentiaries. Representatives of more than 25 international organizations work now with convicts. Churches existing in Ukraine grant noticeable assistance in organizing the prayer rooms. It can be said that the new type of social and legal relations has been formed in this sphere. This is expressed in the realization of convicts' rights for freedom of religious outlook. The subjects of these relations are convicts, religious organization and administration of the penitentiary organs.

In the light of modern tendencies to use modern social technologies the process of the adaptation to the life at large becomes more and actual. Here the fruitful cooperation with employment centers and law-enforcing organs becomes paramount. The cooperation of the Department and the Ukrainian State Center of social services for youth is also very important for the reforming and social adaptation. The work was carried out firstly with minor convict, since now the Department concluded an agreement with the Center about realizing the Program of social maintenance of the youths, who do their terms or are expected to be released soon.

In a number of regions (in Kharkiv, Donetsk, Zhytomyr, Lugansk, Chernigiv, the Lviv oblast and the Crimea) the centers and funds for social adaptation are created with the assistance of the public. However, this is not a complete self-sufficient system. To construct such a system is necessary to unite the efforts of the public and state organs. State guardianship is a future task.

An essential contribution to the reforming of the penitentiary system we reckon the objective information of wide public about the system’s functioning and problems. We hope that the publication of our Bulletin will promote such objective informing.
About 10 people with TB are kept in one cell of Sevastopol militia detention block. They are accused of various crimes including grave ones. The administration of Simferopol preliminary prison refused to take them because of the poor health referring to absence of suitable conditions for their upkeep. However, the conditions in Sevastopol detention block are even worse: it is not suitable for long upkeep of inmates. Now the sick convicts do not get the necessary medical aid and are not taken for walks. This kind of detention, in the opinion of the Sevastopol human rights protection group is cruel and inhumane, that is incompatible with international obligations of Ukraine. The relations between different penitentiary organizations must not create conditions for violating human rights. The Sevastopol group demands to grant the obligations of Ukraine. The relations between different penitentiary organizations must not create conditions for violating human rights. The Sevastopol group demands to grant the obligations of Ukraine.

«Prava Ludyny», June, 2001

TORTURE AND CRUEL TREATMENT IN THE ARMY

Reform are needed

IV All-Ukrainian Congress of soldiers' mothers was recently held in Kiev. The resolution of the Congress contains an appeal to the Parliament to make an amendment to the law «On universal military duty» postponing the recruiting age from 18 to 19 years and to reduce the duration of the service down to 12 months. Mothers also appeal to cancel the extraterritorial principle that prohibits the soldier to serve in the region where he lives. In the opinion of the Congress, young people after their army service must have privileges for entering state higher schools during two years. From the parents whose sons did not serve in the army or from the young men themselves it is proposed to take a special tax which should be spent for the needs of those who do serve in the army. Soldier mothers appeal the Parliament to adopt the law «On responsibility of physicians and medical commissions for recruiting not-able-bodied young men» and «On the personal responsibility of officers for torturing younger soldiers in the military units». Besides, the soldier mothers insist on their rights to freely visit all military units and prisons.

«Vecherniy Kharkiv», December 19, 1996

A letter from parents

We know how brutal is the atmosphere in the army, and we, parents, will not send there our sons. We do not want them to perish or to become invalids. Here is a fresh example. The son of our acquaintances from the settlement of Darnitsa carriage repairing plant sent a letter to his parents that he was demobbed, got 100 grivnas and hurried home. He appeared later than he promised. Other servicemen took away all his money and beat him so that now he lies in a mental home. He could not get home, and so he was accompanied by an officer. But the latter accompanied him only to Kiev railway station. He did not take him to the parents, perhaps he was unwilling to explain to them why their son became an invalid. The boy was taken to the mental home by militia. They are nine in the ward, and all of them are from the army.

«Kievskie Vedomosti», January 24, 1997

New army, old problems

In March 1997 the newspaper «Slava Sevastopolya» published the article «Help me, mother!» which informed the public that several Ukrainian marines were taken to the 1-st city hospital of Sevastopol with the diagnosis of distrophia. This article moved many inhabitants of the city. People brought to the hospital food and medication for the starving marines. Bosses of the Navy and city had to react. The military unit where the marines had served was visited by the city mayor Viktor Semenov, the commander of the Ukrainian Navy rear-admiral Mikhail Ezhel, and a representative commission from the Ministry of Defence.

After this inspection the separate marine battalion was ordered to transfer from their barracks in the settlement of Tylovoye to Sevastopol, to the former higher
school of navy engineering. According to the data of the medical service of the Ukrainian Navy, the barracks in Tylovoye are not suitable for billeting there a military unit. Because of the low quality of drinking water the level of infectious diseases in the marine battalion is 3.3 times greater than the average level in the Navy, whereas of the virus hepatitis it is 5.3 times greater! Among the commissioned officers the corresponding figures are 2.3 and 4.5. Until recently all insistant demands of military doctors to change the battalion dislocation have been left without reaction on the side of the commandment of the Ukrainian Navy.

Certainly the change of dislocation does not solve the main problem – inhumane conditions of the service in the marines. 22 servicemen of the battalion are underweight. Only during six weeks of 1997 thirteen traumas of the servicemen of this battalion were registered, five of them are broken lower jaws. The majority of these cases are caused by the «dedovshchina». So, on March 19, 1997 marine Yu.Yarovoy was brought to the 1-st city hospital of Sebastopol with the diagnosis «concussion of the cerebral brain». In his explanations he told that he was kept in the guard house in the settlement of Tylovoye. He was ordered to clean the path from snow, when his warden hit him on the back of the head. Physical duress in the battalion is encouraged and applied by officers. On February 14, 1997 captain Efimov hit seaman Piatichev and fractured his lower jaw. Young servicemen complain that they often become victims of sexual harassment.

The publication «Help me, mother!» was regarded by the Navy commandment as a provocation aimed at discrediting Ukrainian Navy. Marines’ parents that came from different regions of Ukraine would hardly share such estimation. They bred healthy boys and sent them to serve the state, which in a few months made them invalids. The parents of one of the seamen who was put to hospital managed to come to Sebastopol from Ternopol region only because they were helped by their neighbors: themselves they did not get their wages for about one year.

Trinkets have been changed on the uniform, but the Ukrainian army still remains a detestable relict of the Soviet times.

The Court Martial of Zaporozhzye garrison has recently completed a six-month investigation of seven servicemen for dedovshchina («cruel attitude to junior servicemen contradicting the Articles of War», as the verdicts formulates it).

Privates A.Roganin and V.Roganin, D.Shamshik, D.Babayev, junior sergeants S.Kovaliov, S.Tsybulko, sergeant A.Voeoda systematically and inhumanly tortured young servicemen, beat them, extorted things, woke up at night and forced to press up from the floor. Those who could not fulfil the norm were kicked and beaten by stools; younger servicemen were sent to the city to fetch drinks and cigarettes, if the cigarettes were of Ukrainian brand, the «deds» made youngsters swallow the cigarettes.

The court condemned the guilty for the terms from three to five years of the strengthened-regime colony.

«Prava Ludyny», July, 1997

Strange things happen in Ukraine. Some times it seems that one should stop wondering, and then again one is struck by arbitrary and cruel actions of state, civil and army officers.

At first Kharkiv Group for human rights protection received a written complaint of Yuri Kazakov’s mother. She informed us (showing all the necessary documents) that her son was a mental case, later mobilized to the army and still later placed into a preliminary prison in Simferopol for desertion. Yuri was ill from babyhood, at birth his lungs did not open, the new-born baby was saved but the asphyxia led to irreversible damage to the cerebral brain. As a boy he demonstrated inadequate behavior. There was no school, no children hospital, no children collective where Yuri felt himself well. He often missed lessons and escaped from home. At seven when he had a conflict with the divorced father he cut his both forearms after which there have been visible scars. At the age of 12 he got a trauma of the cerebral brain, was taken to a hospital and ran from there next day. From the neurosurgeon of this hospital mother heard for the first time that her son was a mental case and that he should be treated. Then he was directed to the children department of the city psychiatric hospital where he stayed for almost three months. The doctors released him on the condition that a boy should undergo a treatment two times a year. However, mother could never make her son come to the hospital again. In general, she could hardly control the boy's behavior.

Time passed and the boy was called to the army. Mother did not protest, perhaps of the rather common
prejudice that the army «would correct». Yuri himself said at the medical commission that he had stayed in the psychiatric hospital. According to General- Major Klinkin, the chief of the recruiting commission, the request was send to the psychiatric hospital and the answer followed that Yuri had not been observed there.

Certainly, one glance would suffice at Yuri and his forearms covered with scars to see that something was wrong with him. Besides, he was obviously retarded in his intellect: he could hardly read and could not answer simplest questions. However, there was a plan on the number of recruits and Yuri was considered able-bodied and enlisted.

What happened later was unavoidable. Yuri ran from the army. He did it thrice. For the first time he appeared at home beaten black and blue and declared that he would never dream of coming back to the army. Mother brought him back, spoke with the regiment commander, and the commander promised to smooth the accident. In several days Yuri came home again. Mother again brought the defender of the motherland back. Yuri was not bright, but when he ran for the third time he did not come home.

Army commanders seemed satisfied and did not seek for Yuri but in the beginning of 1997 Yuri came to a militia precinct and gave in. He was taken to Feodosia to the military unit where he had to serve. A criminal case was started against him according to Article 241 (desertion).

Here enter Law and Justice. Soon two officers, who presented themselves as operators of the Feodosia procurator's office, came to Yuri's mother and demanded her son's medical record (normally such documents are stored in hospital's archives, but after the campaign for economy the records were given to patients). The officers showed no documents identifying them and supporting their right to exempt any documents. Luckily, a neighbor was present and she was shrewd enough to ask the officers to show their documents. The officers exuent. Somewhat later Yuri's advocate came to mother. She asked to call her by her christian name Tatyana and said that she came for her fee of 400 grivnas. She said that without her aid Yuri would get five to seven years of imprisonment, while with her aid he would get three or less. Mother had enough sense to call a member of the human right protecting group. The member put a quite reasonable question how can the man get seven or three years if he is a mental case and need psychiatric expertise. Tatyana was at a loss. «Nobody is going to try Yuri, you must not complain at the procurator's office. They are all good guys...» The advocate was adamant in concealing her surname and followed the two officers. The human rights protecting group advised mother to turn to the man whose integrity and persistence are known in Ukraine and abroad. This is professor A.N.Rybalko, a deputy of the city council of Simferopol and a member of the international organization for human rights protection.

Professor Rybalko turned to the main military Justice of the Crimea, informed him on numerous violations of the Criminal-Procedural Code in Yuri's case and requested to have Yuri examined by a psychiatric expertise. Certainly Yuri was considered not fit for military service. But Yuri's case had another strange branch. Yuri himself testified that he got the verdict of three years without a trial or, at least, at the trial at which he was not present. They just came to his cell and told him that he had got three years. He was waiting for sending to the place of imprisonment, when they came for him and brought him to the medical commission.

«Prava Ludyny», August, 1997

«Dedovshchina», cruel treatment of young soldiers by servicemen of older age or senior rank, is eating the Ukrainian army. Below a number of quite typical events is described

«Dedovshchina» again

Private N., who learned the «Course of a young soldier» in the village of Rakitnoye, Kharkiv Region, was found hanged in the latrine. The official investigation decided that it was a suicide.

Perhaps, we would not mention this case, unless another news came from the same unit: N.Blyshchyk, a «ded» (literally «granddad», i.e. a soldier finishing his stretch in the army), beat a young soldier half to death, so that after a long stay in the hospital the victim was sent away from the army. Private Blyshchyk was tried by the Court Marchall of Kharkiv Garrison and condemned to three and half years of incarceration in prison or camp.

Recently the same court has condemned more than 20 servicemen for «dedovshchina». This and the efforts of some commanders and of the Committee of soldier mothers made the situation in Kharkiv Garrison a little bit better. The exception is the notorious unit in Rakitnoye.

A «greenhorn» soldier Sergey Khvostik came to a Kharkiv hospital with a scalded leg. The official reason written in the medical card is «careless handling of boiling water». The victim's mother gave another explanation: corporal Avramenko made a practical joke by pouring boiling water from a kettle to the greenhorn's boot.

A week ago we got another message from the same company: many patients from this company turn for medical aid with burns and injuries of shins. The reason is the same: the cruel horseplay when deds beat and burn the novices' shins just for fun.

We had a talk with colonel Mordvin, the commander of the unit. The colonel was optimistic: dedovshchina decreased by 2 to 5 times, compared with the last year: the active fight with dedovshchina and hard drinking was under way.

All our society is ill, and illnesses of the army is the reflection of the total unhealthiness. However, one must not drive the illness inside.

«Sloboda», No.90, 1997

On our army's health

Last year 107 suicides were committed in our army. Five people were murdered as a result of «dedovshchina», 44 became invalids and 800 were just injured,
through only 287 criminal cases were started. 788 soldiers deserted from the army because of «dedovshchina».

According to the data of the military procurator, 100 officers committed suicides during the last five years. Last year 1200 servicemen were sent from the army on grounds of bad health. For dodging military service 840 cases were started, among them 35 against officers.

«Prava Ludyny>, February, 1998

Who believes General prosecutor’s promises?

N Shechenko, M Shutaliova, I Zakharova Kharkiv Branch of the Union of Soldiers' Mothers

Mass media made public the appeal of the General Prosecutor's Office of Ukraine to the first-time deserters, who, as it is worded in the appeal, «left the army under mitigating circumstances, and, fearing the punishment, hide now, thus preventing the law enforcing agencies to find them and act according to the law». The appeal guarantees abolishing the criminal persecution to those deserters who deserted for the first time, provided that the action was caused by a combination of unfortunate circumstances, such as dedovshchina, troubles in the family, weak health, etc. and if the deserter comes voluntarily to the nearest military prosecutor».

To the Kharkiv Branch of the Union of Soldiers' Mothers several parents came. Their children are hiding for 1 to 2 years. The parents ask one question: Can they believe the promises of the General Prosecutor? They doubt whether it is possible to prove now that one, two or more years ago there occurred the combination of unfortunate circumstances. Certainly, unfortunate circumstances did occur, since nobody deserts from a sweet life, but how to prove it?

Upon the whole, the population mistrust authorities, especially those who came across with deception. On our opinion, the appeal in such a form as it is will not suffice. From mass media it is known that up to now about 1% of the deserters has turned to military prosecutors. Alas, we, soldiers' mothers, are not surprised. The appeal of the General Prosecutor contains the conditions that cannot satisfy most deserters. For example, if someone was tortured by deduwo two or three years ago, what a deserter can prove? His tormentors were demobbed long ago.

The juridical foundation of the appeal, as lawyers told us, is very shaky. Desertion is a crime, and to pardon the criminal an amnesty is needed, and that can be done by a President’s Edict or by the Resolution of the Supreme Rada. Hence it follows that any criminal inactivity when dedovshchina reigns, cannot quote any case when officers were punished for criminal inactivity when dedovshchina in their units was found and proved. But this is obviously the function of military prosecutors. The testimony of deserters about being tormented is not fixed, as well as the complaints of the parents about the hurried and indiscriminate recruiting campaign, when diseases, social conditions, etc. are not taken into consideration.

Y. is a typical example of the work of the local prosecutor’s office. The private was mobilized in spring of 1995, although he was a typical mental case. He was not examined by psychiatrists after his first escape from his unit after several weeks of his service. Mother brought him back to the unit and complained to the commander that the boy was regularly beaten. He was beaten again, escaped from the unit and was on the dodge for a year, then came to a militia precinct and gave up. Y. was sent to Feodosiya, to the unit from which he had escaped, then transferred to the Simferopol preliminary prison. The cops from the Feodosiya prosecutor’s office did not pay any attention either to the deserter’s complaints of the maltreatment nor to Mother's demands to examine his son's psychic state. Only after the intrusion of the well-known human rights protector Rybak, a professor of medicine, the prosecutor had Y. examined by a medical commission, which easily established an obvious fact that Y. was psychologically ill since early childhood. So the recruiting center in Kharkiv had to release Y. from conscription, the military commander had to send him to a proper commission and the prosecutors office had to find the guilty and to punish them. It goes without saying that nothing of the sort was done.

The case of private P. does not inspire optimism either. For two years P’s mother tried to convince the military commanders that in the unit, from which her son deserted, reigns dedovshchina. There is no official reaction, just red tape. Such examples can be multiplied.

To sum up, we think that the President or the Supreme Rada must declare the amnesty to all deserters who are not guilty of other crimes and who will voluntarily come to prosecutor’s offices. This decision would return, to some extent, the trust in the authorities and return to society thousands of young people. On the contrary, the semi-measures, like attempts to obey the not quite clear appeal, can only increase the distrust.

«Prava Ludyny>, June, 1998

Able-bodied invalids

I Sukhorukova, Kharkiv

It is enough just to look around to see that our society is very far from being democratic. As Bulgakov said the crisis is first of all «havoc in the mind», adding that «if I piss beside the lavatory pan, then havoc will reign in my lavatory». The recent election confirmed the viewpoint of Bulgakov, at least the general part of it. If
a large proportion of the population votes for communists, then nothing will be improved soon in this society. The «havoc in the mind» reigns everywhere. We, human rights protection activists, come across daily with situations when authorities just are not willing to fulfill their duty, and citizens are unable to protect their rights against their petty adversaries, such as a doctor from a motor ambulance or a school teacher.

It can be observed that the structures inherited from the past do their duty worst of all. They must be reformed or abolished, but the society is not prepared. We want to dwell in this article on a structure that will not reform on its own initiative, so the public must carefully discuss all whats and whens. We mean the military medical service.

More than once we wrote on facts of abusing of servicemen's human rights. The drawbacks of the service partly repeat those of the common medical service (its old bodies are ruined much faster than the new ones appear), but it has plenty of its own peculiarities. The common trouble of civil and military doctors and administrators is the lack of financing from the state budget, which results in the shortage of medical drugs, necessary equipment and the like.

This is partly the cause of superficial diagnoses, of incorrect and insufficient treatment. Now military hospitals must pay to hospitals for civilians for consultations. This, by the way, violates Article 49 of the Constitution of Ukraine, but havoc reigns both in our heads and in our legislation. Together this mixture is very dangerous to handle.

Having decided to analyze the military medical service, we are not going to assert that it is inferior to the common one in all respects. Prominent doctors work in the military medicine. But this fact alone is insufficient for the efficient treatment of servicemen. First of all, a serviceman cannot insist on his right to be treated, compared to a civilian. Although in the civil medicine we often come across the facts when doctors dodge and do not take patients seriously, the scale of the similar phenomena in the military hospitals is much larger. (Here we mean the treatment of young people, since the treatment of pensioners in civil hospitals is a special topic.)

This attitude to patients is costly. The upkeep of a patient on a military hospital bed is more expensive than in the one for civilians, so the quality of the treatment is important in terms of money as well. Young men, having come to the army and having experienced difficulties of the military service, fall ill frequently. On the one hand, this results from the bad work of the recruit-examining commissions which consider able-bodied youths of very poor health. All the attempts of the Ministry of Defence (MD) to improve the situation in the districts have, until now, appeared fruitless. The young men are recruited either from villages, or from town families of lower classes. In such families they, as a rule, have no money for a fundamental medical examination of youths. If the recruit's health is weak, he must come to the local recruiting commission with a stack of diagnoses and medical certificates on diseases available. Youths from poor families have no such documents. As a result, a recruit can be conscripted with a bouquet of diseases that makes his service impossible. Such people are, in some cases, demobbed as invalids.

It would seem reasonable that a gravely sick soldier must be demobbed, since the army is not interested to pay for numerous transportation of a serviceman to a hospital and back, for sickness leaves, medicinal drugs, consultations and so on. To say nothing about the moral and physical damage on the patient who lives in the suspended state. However, we know about many cases when servicemen were not demobbed even if they were in their units one week every two months.

For example private Chuprina was conscripted in 1994, contrary to Order No. 325, with the diagnosis «chronic purulent cystoid synusitis». In the first month of his service the disease became more acute, he caught glomerulonephritis and landed in a hospital. Further, for a week in the unit he spent about two months in hospitals, then on the leave for reconvalence. His mother turned to the Union of soldiers' mothers. After our request the soldier was put to Kharkiv region military hospital (KRMH), stayed there for three weeks and was released with the innocent diagnosis «gastritis, rhinitis». However the soldier continued to be ill, and the ratio between his service days and sick days stayed on the previous level. As a result, after a year of such sufferings he was demobbed. Nobody counted the expenditures of taxpayers' money.

We shall render two more examples (out of very many).

Private Ustiugov was taken to KRMH with chronic commisure disease caused by a previous operation of removing appendicitis with peritonitis, which had been made in Lugansk, in a hospital for civilians. One may ask why he was taken to KRMH so late, but – alas! – servicemen are rarely taken to hospitals in the proper time, of which we are going to speak later. But rather later than sooner, the private was operated, after which his timetable of active service looked exactly like in Chuprina's case. Nonetheless he was not demobbed by KRMH. We have managed to put him to Odessa region military hospital and are waiting now for the decision of the medical commission.

Private Savinsky, after a heavy trauma of the cerebral brain, suffers from weak memory and inability to concentrate. He, for example, cannot write an application without someone's assistance, cannot memorize a line from a verse and the like. He suffers from guiddiness, heartbeat, headache, heartache. Nonetheless he was considered able-bodied by KRMH and continues his service in an elite rocket unit.

Most servicemen about whom we learned from complaints of their mothers, who believed that further service endangers their children's lives, were, after our appeals to MD, directed for an additional medical examination and were demobbed after that. But transfers between hospitals cost money, as well as treatment, consultations and so on. Every time we come to KRMH we feel that we are not welcome. Still we try to convince them that a childishly simple conclusion is true: if a servicemen serves one week in two months, then to keep him in the army is ruinous for the country. We,
from the Union of soldiers' mothers, had numerous talks, if not to say conflicts, with the administration of KRMH. Colonel Nikiforov, its former Chief of medical service, was adamant in keeping within the army every invalid. When we reminded him about servicemen who were considered able-bodied in Kharkiv and later were demobilized, according to the diagnosis given in Odessa, he called it blackmail. The present Chief of medical service is more humane. There are several doctors who are high-skilled and who would have been ready to save poor invalid boys from the army, if the rules had changed. But the rules are cruel and stupid, and they do not change. The rules say that if a patient does not suffer from a deadly disease (in this case the hospital may rule to demob the patient), but, say, has a bouquet of chronic illnesses that keep him most time in a hospital, then, to start the demobilization routine, the hospital must receive the document from the commander of the unit with the list of illnesses of the soldier. It is sheer idiocy, because the commander has no qualification to compile such a document and, besides, he is too busy and unwilling to do it. There are exceptions among commanders, but they are few.

To sum up, there are three causes of inefficiency of the military medical service.

The first is, as always, the personnel factor. Good people working in a bad system have to do bad things, but they do not rejoice and try to minimize inhumane acts, unlike others, to whom the system gives a carte blanche for inactivity.

Secondly, the system is bad. It contains a contradiction. The state, or at least the top brass, needs more chair a canon in the army, whereas the military medical service, subordinate to the top brass, must decrease the number of servicemen.

Thirdly, the laws, which must oversee and control the situation, are obviously inadequate. They do not protect the rights of either doctors or patients (both in the army or at large). Legal acts of the lower level contradict to the existing laws. For example, the order of Kharkiv Regional and City health committees prohibits to grant medical aid to non-urgent patients-recruits, which contradicts to Article 49 of the Constitution of Ukraine and Article 6 of the Law on health protection, as well as Article 113 of the Penal Code that treats as a crime nonproviding medical aid by medical staff.

We believe that the existing situation can be improved by the following steps (needing public and professional discussion).

First, to include the military medical service into the framework of the Ministry of Health without lowering previous salaries.

Secondly, to create as soon as possible, the professional army. It will make the army healthier both in the medical and figurative sense.

Thirdly, as soon as possible, to begin the juridical reform in medicine, especially concerning medical insurance of citizens.

But next to nothing is being done. The havoc in our minds and in our country is going on.

A.B., our informant

«Prava Ludyny», September, 1998
The court martial of Darnitsa garrison considered the criminal case of beating private Petro Fazan by lieutenant-colonel Pavlo Mishchenko. On the ordnance yard of the military unit A-0338 (settlement Devichki of Kyev region) the lieutenant-colonel hit private Fazan with his fist on the midriff, slapped him on the head and kicked him in the crotch.

According to the words of the commanding officer, the lieutenant-colonel was nervous since the arrival of the Prime-Minister was expected.

The court verdict was the fine of 450 grivnas.

The military prosecutor of the Darnitsa garrison intends to lodge a complaint against this decision.

«Kievskiye vedomosti», 4 July 1998

Another suicide

Valeriy Tretjak served in the unit A-3084 (Kharkiv region).

During seven days on end his mates mocked at him, tormented him and at last drove him to suicide. Two soldiers: Yuri Tarasenko and Sergey Barsay have been sentenced to six years of imprisonment in the colony of the strict regime, two others: Sergey Yakushenko and Pavlo Kulichenko have been sentenced to 18 months in the penal battalion.

«Kievskiye vedomosti», 7 July 1998

Casualties in the peaceful time

24 Kharkivites perished during their service in the armed forces of Ukraine in 1994-95. Four of them died of beating («dedovshchina»), six died in road accidents, four – in other accidents, two froze to death and five committed suicide. 33 Kharkivites more returned from the army as invalids.

«Den», No.107, 1998

The «deserter» is expected at home

I.Sukhorukova, Kharkiv

In our November issue we wrote about the case of Artur Nigrutsa. Now we have got the answer form the Commission on Mercy. Our request to mercy A.Nigrutsa is rejected. Two grounds are given: one that he has deserted from the army, another is an aggravating circumstance – he was already brought for criminal liability. However, in his verdict it is said that Nigrutsa was not brought for criminal liability, otherwise he would not be taken to a paratrooper unit. The matter is that being a minor, Artur Nigrutsa was brought for criminal liability for a group brawl, in which he defended his younger kinsman. The combatants got two letters can be named a chronicle of «dedovshchina». Neither the investigation officer, nor court paid any attention to this information. The court martial of Darnitsa garrison considered able-bodied after an ambulatory investigation during the recruitment campaign.

Having opened the case history of one of them, Rogozhin, we saw that the young man was considered not able-bodied in peaceful time by the district recruiting commission, then without any visible reason he was redirected to military hospital by the region recruiting commission. The hospital, in contrast to civil clinics, which had examined him before, immediately considered him as able-bodied. The young man with the disease of the central neural system was directed to the army. Is it surprising that he ran away from the army before taking the oath?

Another case concerns private Gula. The young man, according to his relatives, lagged behind in his mental and physical development, his behavior was inadequate. It runs in the family. His mother finished the closed school for demented, and she lost all the medical certificates of her son. We have letters of private Gula from his unit. The letters can be named a chronicle of dedovshchina. Neither the investigation officer, nor court paid any attention to this information. The court martial of Zhitomir condemned Gula to three years of service in a penal battalion.

The military prosecutor informed us that Gula is considered able-bodied by Lviv military hospital; Kozak is also not able-bodied because of his cerebral-brain trauma he is observed by a psychiatrist. At present he is again in the stationary prison hospital.

All this testifies that Artur had been not able-bodied when he was taken to the army. The Commission on Mercy was not interested in all these trifles. Why should they fidget? It is easier to return documents with an absurd and inhumane formal reply. The struggle for Nigrutsa is in the future. Meanwhile V.Nesterenko, an advocate of Kharkiv Group for human rights protection, wrote a complaint to the court martial of the central region, requesting to cancel the verdict. We also directed our letter there. If the verdict is not cancelled, we intend to write a complaint to the Supreme Court of Ukraine, and at this stage we ask the readers to join us. In the proper time we shall inform you how you can help.

Unfortunately such cases are rather frequent. Here are several more stories related to desertion. During 8 recent months the Kharkiv Group and Kharkiv branch of soldier mothers’ Union received nine complaints from servicemen (or their relatives), who deserted from their units. In all such cases «dedovshchina» was the reason. Kharkiv and Ukrainian press have recently described a case when four soldiers from Kharkiv deserted from their unit. Almost at once they and 30 other Kharkivites were transferred to another, safer, unit, where they continued their service. Nonetheless, two of the four «deserters» complained on their health and on the insufficient medical investigation during the recruitment campaign.

The «deserter» is expected at home

V.Nesterenko, Kharkiv

During seven days on end his mates mocked at him, tortured him and at last drove him to suicide. Two soldiers: Yuri Tarasenko and Sergey Barsay have been sentenced to six years of imprisonment in the colony of the strict regime, two others: Sergey Yakushenko and Pavlo Kulichenko have been sentenced to 18 months in the penal battalion.

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In our November issue we wrote about the case of Artur Nigrutsa. Now we have got the answer form the Commission on Mercy. Our request to mercy A.Nigrutsa is rejected. Two grounds are given: one that he has deserted from the army, another is an aggravating circumstance – he was already brought for criminal liability. However, in his verdict it is said that Nigrutsa was not brought for criminal liability, otherwise he would not be taken to a paratrooper unit. The matter is that being a minor, Artur Nigrutsa was brought for criminal liability for a group brawl, in which he defended his younger kinsman. The combatants got two letters can be named a chronicle of «dedovshchina». Neither the investigation officer, nor court paid any attention to this information. The court martial of Darnitsa garrison considered able-bodied after an ambulatory investigation during the recruitment campaign.

Having opened the case history of one of them, Rogozhin, we saw that the young man was considered not able-bodied in peaceful time by the district recruiting commission, then without any visible reason he was redirected to military hospital by the region recruiting commission. The hospital, in contrast to civil clinics, which had examined him before, immediately considered him as able-bodied. The young man with the disease of the central neural system was directed to the army. Is it surprising that he ran away from the army before taking the oath?

Another case concerns private Gula. The young man, according to his relatives, lagged behind in his mental and physical development, his behavior was inadequate. It runs in the family. His mother finished the closed school for demented, and she lost all the medical certificates of her son. We have letters of private Gula from his unit. The letters can be named a chronicle of dedovshchina. Neither the investigation officer, nor court paid any attention to this information. The court martial of Zhitomir condemned Gula to three years of service in a penal battalion.

The military prosecutor informed us that Gula is considered able-bodied by Lviv military hospital; Kozak is also not able-bodied because of his neurological diseases and ulcer.
Our experience shows that first who desert because of dedovshchina are young men with bad psychic or physical health. To desert for them is perhaps the best way out. We know two cases when youths who have got to the army with inadequate psyche did not run, they took firearms, killed their offenders and then committed suicide.

What is the reason? Why, in spite of the categorical order of the Minister of Defense about the responsibility for taking diseased recruits to the army, we come across again and again with such facts? Now the number of recruits is considerably reduced, and it could seem that there is no necessity to recruit invalids. Moreover, the present Minister of Defense was the first minister who counted how much an invalid-recruit costs to tax payers, even if he does not desert and shoots at nobody.

The usual routine is the following. A sick recruit becomes even a more sick soldier. Sooner or later, badly or better, they start to treat him. Several times a year he stays in the military hospital (and one must know that treatment in a military hospital is much more expensive than in a civil one), and at last he is demobilized as invalid. All this is done for the money of tax payers.

Analyzing the problem of recruitment, we have arrived at certain conclusions:

- not able-bodied recruits continue to be taken to the army because the interests of the Ministry of Defense and of the society on the one hand are contrary to the interests of the recruiting bureaucrats;
- the recruitment of invalids could be severed only by extraordinary methods.

For example, in Russia there are cases when commanders of the military units, having received invalid recruits, sue the recruiting committees. There are more and more such cases. This is the measure worth to be repeated in our country, but is it sufficient? I address the readers of our bulletin to think over the problem and take part in the discussion.

I want to use the opportunity for expressing public gratitude to Odessa human rights protection center «Rutenia», the Union of soldier mothers of Odessa and Odessa Union of veterans for their support in the case of Artur Nigrutsa.

Happy end of «deserter» Nigrutsa’s case

I.Suhorukova, Kharkiv

«Prava Ludyny» February, 1999

Article 241 of the Penal Code of Ukraine about deserting remains, and they concern first of all the application of the resolution of the military collegium humane. How is this article preserved in the new version of the Penal Code? We have some experience of meetings with servicemen, who escaped from their military units, and these meetings convince us that young men leave their units because of their unwillingness to serve or by some criminal motives only very infrequently. As a rule, serviceman run because of dedovshchina or because of diseases, especially psychic. Do we need to preserve this cruel article, if in the most cases the convicted servicemen were brutally treated during their service? In the case of A.Nigrutsa the most guilty are those who recruited the invalid, then military doctors who did not treat him, then those doctors who negligently examined him, when directed from the prosecutor’s office. The court, fast and biased, did not take into consideration any mitigating circumstances, although Nigrutsa’s father kept telling during the trial that his son was gravely ill. It is paradoxical that the best medical treatment A.Nigrutsa got in the colony. In the medical department of the colony he was attentively examined and treated as carefully as poor material resources permit.

A.Nigrutsa is a citizen with respect to whom the state did not fulfil its duty.

Now A.Nigrutsa’s parents intend to prosecute the Ministry of Defense. Maybe, in the course of investigation, detectives will elucidate how it could happen that he got a trauma during his service and not a single one in the battalion paid attention to it. Unfortunately, the neuropathologist of the Kharkiv garrison hospital considered A.Nigrutsa healthy without any medical examination.

Our legislators should think to which degree the article on deserting corresponds to realia of our life. The law on the alternative service, which is quite obvious, does not correspond to these realia.

The draft of the law on the military service, in our opinion, does not solve urgent questions that stand before our society.

Legislators do not take into account the problems which our life generates. A deserter in the peaceful Ukraine is an anachronism inherited from the 30s. Another example is Article 400 of the draft of the Penal Code of Ukraine – voluntary giving in, which in the military time is punished by the term up to 15 years. In
which time live those who compose such juridical masterpieces?

Arthur Nigrutsa is free now. He works and undergoes medical treatment. But who knows how many such as he stay in our colonies now?

«Prava Ludyny», July, 1999

A typical history of a deserter

This is a complaint of a soldier’s mother Zezekalo L.A. This complaint was handed to Kharkiv Group for human rights protection.

In the beginning of April 1995 my son Dadashyants Sergey Gervandovich (a Ukrainian, born in the town of Chernigov in 1974, has grown without father since two years of age), came home on leave from the army in a very strange state: with a black eye, with scars on eyebrows, with the broken and deformed nose. Besides, he had a bad cold. When I saw him, I was frightened and started to question him. At first he was silent, and then he confessed that he tried to stop another soldier, who was cutting his veins. The scars were the result of Sergey’s attempt to stop the suicide. I wanted to go to his military unit, but he persuaded me not to start anything, if I wanted him to finish his service normally. I took him to a hospital to treat his nose, since he hardly could breath through the nose and suffered from headaches. In the hospital they put him the diagnosis: acute antritis. Having passed the course of treatment he remained very nervous, and it was obvious that he did not want to return to his unit. Before the army he was anxious to enter the university, but now he was doubtful.

On 25 April 1995 he started on his way back to the unit and disappeared. In several days a friend of his came to me and said that Sergey all this time had been hiding in the Kharkiv Polytechnic Institute hostel. Then he borrowed some necessary things and a passport from one of his acquaintances and promised to return them back by post. Since that day a week passed, but there was no information about Sergey. I was frightened and asked his friends to write an application to the regional military commissariat and gave himself up. From there he was sent to the district military commissariat. From there he was sent to the military commissariat of the town of Lozovaya for interrogation. From there he was returned to Kharkiv and placed into the guardhouse. They explained to me that the case was given to a very young investigating officer (23-year-old) and the latter arrested Sergey. Later the officer said to me that the case was such that Sergey could get from three to five years of prison, not of the disciplinary battalion. He said that Sergey was a deserter and guilty of high treason. You, if you have children, must understand my state, the more so that Sergey said at our last meeting that he would finish the army service and then would try to enter the military university. How naive he was!

If Ukraine needs good clever soldiers, then military bureaucrats must permit my son to serve the remaining eighteen months. Sergey has become more grown-up, he lived in Volgograd without documents and with a bag. He wrote letters home and to his friends, but he did not mention his Volgograd address. Neither of these letters got to the addressee, because letters without a return address are thrown away at the frontier. So he decided that nobody at home needed him. Several times representatives from his military unit and from the district military commissariat came to me and persuaded me to tell about thereabouts of Sergey. They said that if Sergey returned to the army by his own will, he would be permitted to end his service. They showed me the orders of amnesty. I believed them and promised that when I saw Sergey, I would lead him myself to the district military commissariat.

On 25 March an acquaintance of mine, a militiaman, phoned to me and said that a teletype message about Sergey came from Volgograd. On 31 March I already was in Volgograd, and the next day we were at home. Immediately after his arrival Sergey came to the regional military commissariat and gave himself up. From there he was sent to the district military commissariat. From there he was sent to the military commissariat of the town of Lozovaya for interrogation. From there he was returned to Kharkiv and placed into the guardhouse. They explained to me that the case was given to a very young investigating officer (23-year-old) and the latter arrested Sergey. Later the officer said to me that the case was such that Sergey could get from three to five years of prison, not of the disciplinary battalion. He said that Sergey was a deserter and guilty of high treason. You, if you have children, must understand my state, the more so that Sergey said at our last meeting that he would finish the army service and then would try to enter the military university. How naive he was!

If Ukraine needs good clever soldiers, then military bureaucrats must permit my son to serve the remaining eighteen months. Sergey has become more grown-up, now he would certainly be a good soldier. At school he was a good pupil, additionally studied the English language, then finished successfully the vocational school of electric and radio equipment, he knows computers well, after the school he entered the institute, but had to leave it. I could not support him for my wages of 80 grivnas, I fell ill and he went to work. He said, I’ll go to the army and complete my education. He dreamed to launch rockets to the cosmic space.

He lived in Volgograd without documents and without parents for infinite four years. He thought that he was not needed by either his mother nor Ukraine. Is it
not a sufficient punishment? People say to me: you should pay. But what can I pay? My salary is 80 grivnas, and I have not got it for the last four months. His classmates want to write a petition to the President, and I am desperate.

Help me for God’s sake! My son is not a threat for society, and he may become a good military engineer.

PL commentary. Young men, who left their military units because of dedovshchina, or, more often, their parents, frequently turn to Kharkiv Group for human rights protection or Kharkiv district Union of soldiers’ mothers. In April-June 1998 the General Prosecutor’s office together with the Ministry of Defense started a humane campaign: they turned to deserters with the proposition to give up and return to the army; if the causes to desert were mitigating, the deserters would be freed from the criminal persecution. This campaign was rather successful, for example, 17 deserters gave up only in Kharkiv region. Deserters and their parents who turn to Kharkiv Group for human rights protection naturally put the same question: what would happen with the deserter when he gave up. Lately we answered them that the deserter who left his unit because of dedovshchina and gave up voluntarily would not be prosecuted. Yet Kharkiv military prosecutor’s office recently started to prosecute a deserter and informed us that the campaign lasted for two months and was terminated in August. Meanwhile the Ministry of Defense continues to appeal to deserters to give up.

We are sure that this campaign must be continued because the majority of deserters hide in various countries of the CIS and do not know about the campaign. This action will diminish the level of crime, since young men without documents is an easy prey to criminals. Nonetheless, the new wave of prosecutions has begun and we have no moral right to advise deserters to give up.

We ask the General Prosecutor’s office to give us an official response: what will be with young men who, without committing any crimes, left their unit because of dedovshchina and later gave up. It seems to us that the actions of the Ministry of Defense, of the General Prosecutor’s office and of Unions of soldiers’ mothers should be coordinated, since neither of the sides wants deserters to stay in hiding.

«Права Людини», April, 1999

Here we quote several instructive documents concerning the situation in one, we hope not typical, military unit.

To the Prosecutor of Simferopol garrison

From the mother of a private from military unit A – 0492

Application

My son, G.V., born in 1979, a private in military unit A-0492, billeted in the village of Perevalnoye, on 22 February 1999 was brutally beaten by older soldiers in the presence of lieutenant G.Vasilenko. After the beating my son, bleeding and with numerous injuries, went to his direct commander senior lieutenant Chubenko, who did not pay any attention. Having found no protection from his commander, my son, desperate and beaten, had to find protection of his parents. Next day he left his unit and, hitchhiking, on 4 March 1999 managed to come to Kharkiv and came to his grandmother. On 5 March he, together with his parents, came to the recruiting committee, where he was advised to turn to the city military prosecutor’s office. Detective Pichugin wrote down the evidence and organized the medical forensic expertise. Before recruiting my son was absolutely healthy, now he complains of having grave headaches and giddiness, his moral and psychic state is bad. From a happy, healthy, communicable lad my son became pitiful and primed man.

I demand:

To send my son to the complete medical investigation.

If my son is found able-bodied, then I insist that he must be directed to another military unit.

To investigate this case, to protect other victims, and to punish the guilty.

Explanatory note of the mother of private T., who left his military unit A-0492 on 17 May, 1999

My son began his service in 48th tank brigade. From his letters I understood that he was very displeased with his service. After taking the oath, it became much worse. The older soldiers drew him to the village to work on vegetable gardens of local citizens. Officers confiscated cigarettes from soldiers, leaving them only one pack for a month.

Then my son got to the hospital with enteric disease. The diagnosis was salmonella infection. Doctors explained that it was the result of inadequate nourishment. My son permanently complained that in soldiers’ canteen his food was taken by older soldiers, and he stayed hungry all the time. Then he wrote a letter that he was transferred to the training ground, where there were no older soldiers and where he had enough food. When he was returned to the barracks again, he deserted and soon was captured. Then he deserted again and was again captured. For the third time he deserted and did not return. He did not come home too. His father went to the unit and talked with soldiers and officers. They said that our son was close-mouthed. At home he had not been such. The commander said that our son was somewhere in the Crimea, but nobody knew where exactly.

A note from general-major Yu.Klinkin, the head of Kharkiv region military commissariat.

I inform that on 5 March 1999 private G.V. turned to me. The private, born in 1979, was recruited from Kharkiv, served in military unit A-0492, from which he deserted on 23 February 1999.

Private G.V. informed me that he did not want and does not want to dodge the military service. What he did was the result of the dedovshchina.

Private G.V. was directed to the military prosecutor of Simferopol garrison for the elucidation of the reasons of his desertion.

On 27 April private G.V. again appeared in Kharkiv region military commissariat with the request to aid
him. Being questioned, he complained at the state of his health and more that once strayed from the topic. He was directed to the military commandant’s office; the Kharkiv Union of soldiers’ mothers was informed. The commandant of Kharkiv garrison directed private G.V. to the hospital.

The complaint of the Kharkiv region Union of soldiers’ mothers

To the military prosecutor of Simferopol garrison

Your assistant, major G. Atamaniuk, informed us of the refusal in starting a criminal case against junior sergeants A. Gerasim and I. Maksimov, serving in military unit A-0279. He advised us to lodge a complaint during seven days. Major Atamaniuk’s letter was sent on 20 May and received by us on 31 May.

We do not understand some details of this letter. First, we know that junior sergeants Gerasim and Maksimov serve in military unit A-0492, not in A-0279, as major Antoniuk asserts. Secondly, we demanded to start a criminal case against not only junior sergeants Gerasim and Maksimov, but also against lieutenants Vasilenko and Chubenko, who figured in the complaints of the three privates. These officers are blamed of beating, tortures and degrading treatment of single soldiers and entire companies. We also know that the dedovshchina in military unit A-0492 forced to desert two more privates: B.A. and T.R. Thirdly, we did not receive a copy of the criminal investigator’s resolution.

We request to carefully check all the materials on deserters, to cancel the resolution of major Atamaniuk and to explain why he refers to military unit A-0279, and not to A-0492.

The answer to the above-quoted letter

Chairperson of Kharkiv region Union of soldiers’ mothers

According to Article 18 of the law of Ukraine «On citizens’ complaints», I inform you that your complaint concerning the dedovshchina in the cases of privates G.V., K.N. and others was received by the military prosecutor’s office of Simferopol garrison. Prosecutor’s checking of your complaint was carried out, which established the following.

The case of private K.N., who several times deserted from military unit A-0279, was investigated by the military prosecutor’s office of Simferopol garrison. His criminal case was related to Article 240-A of the Ukrainian Penal Code; the investigation was terminated on 9 March 1999 according to Article 7 of the Criminal-Procedural Code because, according to the conclusion of the forensic psychiatric expertise, private K.N. was considered not able-bodied for the military service in peaceful time because of his psychiatric state. In the course of investigation the version of the dedovshchina as a cause of the desertion was studied, but not confirmed.

Private G.Z., who deserted from military unit A-0279, was investigated in the psychiatric department in the Crimean psychiatric hospital No. 1 and considered not able-bodied to the military service because of his psychiatric state and now has been demobilized.

As to private T.G., who also deserted several times, the criminal case is started against him by Article 240-A of the Penal Code of Ukraine, and he is now in search. Before starting this criminal case some workers of the military prosecutor’s office, in particular, major of justice G. Bukhtiyarov, interrogated private T.G. about the reasons of his desertion, and no facts of the dedovshchina were found out.

As to the desertion of private G.V., we carried out a careful prosecutor’s check, in the course of which we checked the version on the dedovshchina relations on the side of junior sergeants Gerasim and Maksimov. However, it appeared impossible to prove them guilty, since private G.V., after stationary treatment of neuro-circular distonia in military unit A-4614, again deserted. It was established that either in military unit A-1650 or in the hospital no dedovshchina relations was applied to G.V. Up to now private G.V. is absent and does not come to the place of his service. Besides, after examination in the psychiatric department of Kharkiv military hospital, private G.V. was discharged from the hospital and directed to military unit A-1650, to where he did not come. This testifies that G.V. does not want to serve in the armed forces of Ukraine, and his testimony on the alleged beating him by Maksimov and Gerasim can be regarded as an attempt to justify his desertion.

After your complaint of 24 March we carried out a detailed prosecutor’s check of sergeants Maksimov and Gerasim and officers Vasilenko and Chubenko. The check did not show them to practice the dedovshchina.

As to the code of the military unit, I inform you that military unit A-0492 is a subunit of A-0279.

Deputy military prosecutor of Simferopol garrison

captain of justice A. Pronin

PL commentary. The above-quoted documents convey a lot of interesting and dangerous information. According to the letter of captain Pronin, a bunch of psychiatric cases was found in the military unit, which, but the way, is a tank battalion. A madman in a tank can cause a lot of trouble, so it is very well that psychiatric cases have deserted. One can think that this is not a tank battalion, but a psychiatric hospital. The answer that no dedovshchina has been found in the unit contradicts to the results of the forensic expertise of private G.V. The expertise confirmed that the private was badly beaten and burned with lighted cigarettes. Did he torture himself? Private G.V. came to the office of our Union of soldiers’ mothers. Every time when we touched the topic of his return to his native unit, he began to tremble uncontrollably. We asked to examine him in a psychiatric clinic. He was shortly examined in military unit A-3306, where the doctors found only «situational reactions of an accentuated person». The further investigation was made impossible by «the absence of a characteristic from the place of service». By the way, the military commissariat of Kharkiv had given a brilliant characteristic of the recruit G.V. – the boy wanted to serve and dreamed of a military career.

As always, we come across with the unwillingness of the military to call a spade a spade. If any recruitment of a psychically abnormal to the army started a criminal
case, if any case of the dedovshchina resulted in the punishment of the guilty, then the number of the killed and injured in our army would much decrease, and there would be much more security, much more order and much less wasted money.

M ore «deserters»

I. Sukhonokova, Kharkiv

The parents of «subsequent deserters» turned to the Kharkiv Union of soldiers’ mothers. Privates C. and S. ran from the National Guard unit billeted in Lviv. Being asked about the reasons, the warriors mentioned dedovshchina and poor health. They were directed for examination to Kharkiv region hospital, to the psychiatric department. Both of them were considered psychically diseased and not able-bodied for the military service (one of them had also a spine disease).

Seven out of eighteen «deserters», who turned to the Kharkiv Union of soldiers’ mothers were considered to be psychic cases. they «managed» to pass through the filter of medical commissions for recruits. That is a pity that nobody is responsible for the quality of conscription.

Our informan

«Prava Ludyny», August, 1999

D edovshchina and officers

A. Kostinskiy, «M emorial», Moscow

After the analysis of much information on dedovshchina one can assert that it is more than a massive phenomenon in the CIS armies, it is the main type of interrelations among privates and NCOs.

This phenomenon appeared immediately after WW2, when some servicemen, having passed the war, having wounds and awards, were not demobbed after the war. Some of them served 6 – 8 years and they were called «deds» «granddads»). At the same time greenhorn recruits came to the army. All the routine work was carried out by them, while the «deds» relaxed. At that time such a distribution of work did not look unfair.

To understand in detail how this phenomenon evolved in time is difficult now, but this system flourished and developed later on and passed without changes from the Soviet army to the armies of the CIS countries. Yet, in the beginning dedovshchina was revealed in a rather mild forms and consisted of fulfilling the work of the «deds» by greenhorns. In the late 60s the situation with younger soldiers became much worse.

The result was massive and systematic violation of elementary human rights of first-year soldiers, as well as the abrupt deterioration of the quality of the army.

At present an opinion reigns that to get rid of dedovshchina the professional army must be created. However, this can be realized in distant future, if ever. The problem is what to do now.

We would like to draw attention to the most important questions which must be answered in investigating any criminal situation: who is guilty and who benefits from the crime?

We believe that the main cause of dedovshchina is not a «poor material provision», not a «recruiting of criminal elements», not a «general situation in the society» – the reasons to which military prosecutors and sociologists like to refer. The main cause lies in the consciousness and practices of army officers. The latter facilitate their life and duties, transferring the organization work in sections and platoons onto 20-year-old «deds». Actually the results are asked from «deds», disregarding the «pedagogical methods» of training first-year soldiers.

Is it possible to do anything without creating the professional army? There are precedents which permit to hope that it can be done. In the Soviet times the situation in the pre-Carpathian commandment was standard: soldiers of the first year of service were beaten and undernourished, as a result of which desertion and suicides were rather frequent. In summer 1982 Order No. 0100 of the Minister of Defense of the USSR was issued. This order was aimed at fighting with dedovshchina. The commandment undertook the following measures:

- strengthening of special training at the expense of non-army works;
- resuming criminal punishment for dedovshchina (division and army prosecutors were permitted to start several show trials);
- sentry service was made to agree with the Articles of War, and it was forbidden to stay sentinel for more than 24 hours;
- development, though it sounds unlikely and comically, of the systematic cultural work among servicemen of the both years of service, attracting girls from vocational schools; concerts and chess tournaments were held, the procedure of meeting relatives was made more liberal.

All this resulted in terminating dedovshchina after the demobilization of «deds» within two months. Certainly, first-year soldiers performed almost all heavy work, but cruel and degrading treatment almost disappeared.

The majority of first-year soldiers suffer mostly from cruel and degrading treatment. Nonetheless, having passed to the second year, almost all of them will degrade and torment greenhorns, thus continuing dedovshchina for new generations. The analyzed precedent enables us to hope that the situation can be drastically improved before the creation of the professional army. To this end, it is necessary to develop investigations both by the civilians and the military. Unfortunately, military sociologists and lawyers, who have accumulated immense experience, are not free in presenting their opinions. Moreover, they often present distorted facts and opinions.

Dedovshchina is decreased when the army has numerous contacts with the civilian community. This is convincingly confirmed by the fact that the most horrible crimes are performed in the military units isolated from the civil life, such as remote storehouses and separate small units situated in unpopulated areas. The intense interaction of army and civil structures will cause fast progress in the protection of rights and human dig-
nity of first-year soldiers. Every side will benefit. Recruiting commissions will not have to catch deserters, young men will not so frequently dodge the army, because many of them like to go to the army to become «manly men», but they are not eager to measure the bar rack with the matchbox or jump on a chair between two rows of «deds» who urge them with belts.

The main obstacle for the suggested transformations is a prejudice that dedovshchina is the main support of discipline in the army. How widely is this prejudice spread, one can see from the following little fact. On 28 – 29 May 1999 a session of the Consulting Committee on army service was held and a deputy of the Russian Duma, a professor, also said that dedovshchina is needed for discipline.

Each generation passes through a meat grinder of dedovshchina, through the reality without the right. How can we expect political activity from men who took from the army the conviction that any appeal to law is vain? Such outlook excludes discussing political systems, the more so – their improvement. Does the impu nity of the «deds» find its continuation in the theft and bribe-taking of our officials?

«Prava Ludyny», September, 1999

Seminars within the project «Development of Ukrainian human rights protection information network»

From 21 January 1999 to 21 January 2000 ten seminars devoted to the topic «International standards of preventing torture and cruel treatment in connection with Ukrainian legislation» were held in the framework of the TACIS project «Development of Ukrainian human rights protection information network». The seminars were held in Lviv, Zhytomir, Cherkassy, Chernigiv, Simferopol, Sevastopol, Vinnitsa, Khmelnitsky, Donetsk and Dnepropetrovsk. All in all there were 870 participants. They were workers of justice, militia, the USS, prosecutor’s offices, as well as advocates, public organization activists and journalists.

The reporters at the seminars were: Oleksandr Pavlychenko, director of the Centre of Information and Documentation of the Council of Europe, who spoke on the prospects of the cooperation of Ukraine with the Council of Europe and who explained the procedure of handing complaints to the European court; Yevgeniy Zakharov, a co-chairman of Kharkiv Group for human rights protection information network, who spoke on international standards of protection from torture and degrading treatment and on how these standards are realized in Ukraine; Roman Romanov, the executive director of Sevastopol human rights protection group, who told about the Ukrainian legislation on detaining and arrest, as well as how they agree with international standards.

Along with the basic reports at the seminars in Zhytomir, Chernigiv, Cherkassy, Simferopol, Sevastopol and Donetsk some additional reports were made. Andrey Sukhorukov, the head of the International Union of human rights (Ukrainian branch), made the report on the role of public organizations in preventing torture. Aleksandr Bukalov, a co-chairman of the Donetsk soci ety «Memorial», spoke on preventing torture and the reform of the penitentiary system in Ukraine. At the seminars in Khmelnytsky, Vinnitsa and Dnepropetrovsk Yuri Zaytsev, the editor-in-chief of the quarterly «Practice of the European Court of human rights: decisions and comments», spoke on the use of the European Convention on human rights in the court system of Ukraine. In Lviv professor Petro Rabinovich spoke about the peculiarities of the interpretation of the norms of the European Convention on human rights by the European Court of human rights; professor Yaroslav Dashkevich discussed the methods of assessment of the situation with human rights.

In the framework of these seminars general discussions were held on the following topics:

- what are human rights?
- what threatens human rights in Ukraine?
- activity of public human rights protection organizations;
- mechanisms of human rights protection.

Our informant

«Prava Ludyny», January, 2000

Some considerations of a participant of the seminar «International standards on preventing torture and cruel treatment in connection with perfecting the Ukrainian legislation»

E. Grinberg, Dnepropetrovsk

Militiamen are, nominally, law protectors, and we are rights protectors. It would seem that they (investigating officers) and we (doctors, lawyers, and journalists) must regard torture in the same way: «This shameful illegal activity must not be tolerated, we shall extirpate it in practice».

Yet, it does not happen so. When reporters talked about abuses of rights in general terms, somewhere and sometimes, the militiamen present heard quietly. Yet, when I risked to reproach the prosecutor’s office of the Dnepropetrovsk oblast by recalling several cases, when I turned to the office with my complaints about the detained beaten in militia, I heard a pack of reproaches: «This is a pack of lies» or even «You support criminals and prevent us to do our work».

I told about the case of a Kobets, who was beaten by transport militiamen, which was confirmed by an eyewitness. In spite of the handed complaint, the district prosecutor’s office refused to start the criminal case. The details of this case, the pressure on the victim and many convincing details are worth of a special report. Yet, the main idea is clear – it is next to impossible to prove that one was beaten by militia. The chiefs of militia negate the facts, and our ombudswoman N. I. Kar pacheva is either silent or passes the investigation to a local prosecutor’s office, from where the standard negative answer had been already obtained. The root of the evil lies in the law «On complaints from citizens», according to which the complaint must not be investigated by those, against whom the complaint is directed. But in similar cases there are no other witnesses except «law protectors». So the result of a complaint is a kind of the paper roundabout.
Another reason to apply torture is extracting the confession. According to section 3, article 62 of the PC, a suspect must not be considered guilty if the accusation is based on arguments extracted by illegal methods. Practically this article is ignored.

Our Constitution declares that an incarcerated criminal has all the rights of a citizen except the limitations which were imposed by the court verdict. In the case of a detained, whose guilt has not been proved yet, the demands of the law must determine his treatment, not the criminal practice of torturing. An investigation of each complaint on torture and degrading treatment by militia must be thoroughly investigated not by district precincts, but by top officers of the oblast level, jointly with advocates or human rights protection activists, who has handed the complaint.

There were suggestions to turn to the European Court of human rights. I think that such a shameful phenomenon as torture and cruel treatment must be extinguished by joint efforts of law protectors and human rights protectors, must be made public in mass media, must be followed by sacking cruel and unprofessional militiamen. Otherwise the European Court will make our country go bankrupt by imposing fines on our beggarly state. The mechanism of taking fines from our country go bankrupt by imposing fines on our beggarly state. The mechanism of taking fines from the direct culprits has not been developed yet.

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Q uality of the recruits from Kharkiv and the Kharkiv region in 1999
L. Klochko, Kharkiv

The Kharkiv oblast Union of soldiers’ mothers, the Kharkiv working group of the international society of human rights and the Kharkiv Group for human rights protection conducted a research of the quality of the recruits from Kharkiv and the Kharkiv oblast in 1999.

We believe that until there exists the conscription, recruits must have the proper state of the physical and psychic health. From our experience we know that the majority of unpleasant accidents in the army happens just with the soldiers who have physical defects or deviations from the behavioral norms. Such people cannot stand the load, they become victims of the dedovshchina and often desert their units. It is they who commit suicides and suffer from accidents. Commanders of military units have to pay special attention to them, being thus distracted from their direct duties. Many of such recruits stay in hospitals, thus spending frugal finances of the army, while able-bodied soldiers have to do extra work. It is possible to continue the list of damages owing to unhealthy recruits, but they are well-known. Unfortunately, recruiting commissions pay insufficient attention to the above-listed arguments. That is why we decided to send letters to all military units, to where recruits-1999 from Kharkiv and the Kharkiv oblast were sent. The total number of such letters was 44.

We received ten answers. The results, as it could be expected, appeared to be distressing. All in all, in those military units, from which we got answers, serve 263 soldiers of the considered group (of the autumn conscription). What happened with them can be seen from the following table.

| Got to hospitals or to medical units at once after the arrival | 4 | 1.5% |
| Have chronic maladies that became virulent in the first days of the service | 25 | 9.5% |
| Have deviations from the normal behavior, were detained by militia, used drugs | 24 | 9.13% |
| Related to the risk group, since they have high tendency to suicide | 5 | 1.9% |
| Conscripted with violations of the law (have the right to the postponement by Article 17 of the law ‘On the military duty’) | 1 | 0.38% |

Some recruits managed to get in the table to several lines, but totally 48 recruits out of 263 figure in the table, which means that more than 18% are quite or partially unable to pass the military service.

Unfortunately, the data are incomplete because many military commanders did not answer our questions, nevertheless this is a well-representative sample. Those commanders who did not answer our letters do not understand, perhaps, that we cooperate with them. We contact the parents of those soldiers that raise problems for their commanders, we seek and send medical cards which enable doctors to monitor the dynamics of the disease in question. We have set permanent exchange of letters with some commanders and they even became readers of our bulletin. We hope to work fruitfully with them.

During the spring conscription of 2000 the oblast recruiting commission included two representatives from the Kharkiv Union of soldiers’ mothers and from the international society of human rights. This permitted us to help those who turned to us or in general had conflicts during the conscription. Our representatives N.Kriukova and M.Shutaliova worked actively and fruitfully. In particular they analyzed the course of the conscription. Their analysis showed that the operating laws on the conscription are far from being perfect. In some following issues we shall describe the situation in details.

We would like to stop this article on the optimistic note, but again we have received a message of the new accident. Private T., who was recruited from Chernivtsi on 27 April and served near Kharkiv, was brutally beaten in the beginning of June and send to the Kharkiv hospital. Another serviceman, private N., committed suicide by hanging.

What were the reasons and who was the guilty needs investigation.

In spring-2000 they called 2200 recruits from Kharkiv and the Kharkiv oblast. Who will be the next?

Q uality of the recruits from Kharkiv and the Kharkiv oblast in 1999
L. Klochko, Kharkiv

The Kharkiv oblast Union of soldiers’ mothers, the Kharkiv working group of the International Union of
human rights and Kharkiv Group for human rights protection regularly carry out monitoring of recruiting campaigns in Kharkiv and the Kharkiv oblast. In particular, we monitored the results of the campaign of 1999 and sent questionnaires to military units and got 22% of responses. During the monitoring of spring-2000 campaign we sent 77 letter to the units, where our recruits serve. We received 35 responses, i.e. 45.45% from the total number of the requests. Only one unit responded that the data requested by us make a service secret. The increase of the number of responses testifies that the military understand the use of such monitoring, as well as the growing trust in public organizations. We regard this phenomenon as one of positive changes, which have occurred in the army. We hope that our united efforts could lead to better results.

In those military units, about which we know, 1014 soldiers of the spring-2000 campaign serve, that equals 50.57% of the total number of the recruits (2005 persons).

<table>
<thead>
<tr>
<th>1014 persons were investigated</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>From them:</td>
<td>Absolute number</td>
</tr>
<tr>
<td>1. Got to a hospital or a medical unit within the first month of service</td>
<td>119</td>
</tr>
<tr>
<td>2. Have chronic diseases, which became acute within the first days of army service.</td>
<td>40</td>
</tr>
<tr>
<td>3. Have behavioral deviations, were detained by militia, took narcotic drugs.</td>
<td>16</td>
</tr>
<tr>
<td>4. Related to the risk group as having suicidal inclinations.</td>
<td>56</td>
</tr>
<tr>
<td>5. Recruited with violation of legal norms (have the right of postponements according to Article 17 of the law 'On military duty').</td>
<td>0</td>
</tr>
<tr>
<td>6. Concealed chronic illnesses from the commission to get to army.</td>
<td>25</td>
</tr>
<tr>
<td>7. Protested that they had no wish to serve in army.</td>
<td>5</td>
</tr>
<tr>
<td>8. Number of attempts to desert.</td>
<td>3</td>
</tr>
<tr>
<td>9. Number of suicidal attempts.</td>
<td>1</td>
</tr>
</tbody>
</table>

The commanders of 10 (28.57%) military units have no pretensions to the quality of the recruits.

Only 189 per 1014, i.e. 18.63% (some of them got into two or more groups) appeared to be inadequate for army service from the first days. The monitoring of 1999 resulted in similar numbers: 18.25%. The study of 2000 is more representational, that may be explanation why the proportion is larger than in the previous year. Besides, we believe that the responses were sent from better units, where commanders care about their subordinates, so the service there is easier. So, we got only one answer from a unit, where a suicide had happened, so we have no adequate data to debate this question.

The largest proportion of the unsuitable recruits is given by the Moskovskiy and Kharkivskiy district recruiting commissions of Kharkiv and the Pervomayskiy recruiting commission of the Kharkiv oblast. So, private L., who was recruited by Kharkivskiy district commission, got to the hospital with a kidney trouble. He was demobilized from the army with the conclusion that he had been ill before the army. All in all, 8 persons were demobilized from units studied during the first 2-3 months of the service. One cannot regard reliable the records like «illness appeared due to military service», since some military doctors make such records pitying the boys. All these boys had not been investigated adequately, they were called to the army in bad health, during the service their illnesses became more acute, so some of them returned from the army as half-invalids.

Some of the responses we could not read cool-bloodly. So, one of the commanders wrote that two of the five recruits-Kharkivites were dismissed from the army: private Ch. (the Zmiyov district recruiting commission) with the diagnosis «organic lesion of the cerebral brain», hydrocephalia, and private S. (the Moskovskiy district recruiting commission) with the diagnosis myocardial sclerosis. Private K. (the Barvenkovo district recruiting commission) committed the suicide. According to the postmortem, «in the period before the death was in a psychic condition typical of suicide (schizoid features of character – personality of braking type)». This means that all these boys should not be recruited.

The response from another unit read: «I inform you that recruits from the Kharkiv oblast (260 persons) passed the medical examination on the arrival to the unit, which enabled us to remark the insufficiently high level of their able-bodiness. Namely: private P. was dismissed according to Article 38 – rheumatism, rheumatic heart disease, etc. of the 1st stage; private S. was dismissed according to Article 18 – split personality, moderate, partly or completely compensated. Besides, 27 persons more are substantially undernourished – lack more than 15 kg of weight». The response from this unit also informs that during the first month of the service 48 soldiers got to hospitals or medical unit. The lack of weight is not considered to be a reason for the postponement of recruiting. But is it reasonable to recruit dystrophics? There exist an opinion, that these boys will improve their health in the army. We categorically disagree: the army is not a sanitarium. Such servicemen will not be able for service. Maybe, a special program of rehabilitation is needed for such boys, which will enable the boys to improve their health and be recruited when they become able-bodied and able to serve.

Private Vitaliy L., taken by the Pervomayskiy district recruiting commission of the Kharkiv oblast, is characterized by the commander of his military unit as follows: «L. always complained about his health, especially about his cardiac problems and enuresis. We were surprised when we read the recruiting commission recommendation to use L. as an organizer. L. passed the medical examination in the military unit. The examina-
tion showed that L. has the fourth (unsatisfactory) group of the psychic state, the high level of alarm, emotional unsteadiness, exalted type of personality. L. was directed to a hospital, from which he escaped. After L. was returned to the unit, he was directed to the oblast psychiatric hospital, where he was given the diagnosis: «emotional unsteadiness, temporary enuresis». According to medical recommendations, L. will be demobilized because of his health. Before the army L. was detained by militia, and even was condemned for theft, but the recruiting commission disregarded these facts». Thus Vitaliy L. was a reason for troubles for his commanders, because of his health. Before the army L. was detained in a psychiatric hospital, where he was given the diagnosis: «emotional unsteadiness, temporary enuresis». According to medical recommendations, L. will be demobilized by the medical examination during the previous registration, start to complain at their health, have no chance to get adequate medical investigation. The worst lot awaits those, who decided to conceal their illnesses. The proportion of such is 2.46%. They do get to military units, but later they find that they are unable to serve, they become ill, mocked at, they desert. And then it is very difficult to prove that they got to the army by mistake.

Medical commissions have a difficult duty. Their attitude to executing their duty determines the lot of young people and the efficiency of the army. It is well known that unhealthy soldiers, especially with psychic deviations, most often become the objects of the devovshchina. A man, who is given weapons, must be 100% psychically healthy. That is why, in out opinion, it is time to change the attitude of the doctors to recruits. Doctors must not wait for the complaints, they must industriously examine those, who will take weapons in their hands. Medical errors have a too high cost for the army, both material and moral.

Doctors, working in recruiting commissions, often complain at the excessive load during recruiting campaigns. The recruits, who were regarded as able-bodied before, during the previous registration, start to complain and demand the additional examination. This situation can be essentially improved. The reason is that the medical examination during the previous registration is very superficial. The boys come together with their class and they are shy to confess in some diseases. For example, it is difficult to fancy that a boy will tell about his enuresis or another disease of such type.

Besides, the Union of soldiers’ mothers receives complaints that recruits cannot get a complete examination because of the poverty of their parents. Some examinations are carried out only for pay: tomographic, immunologic and, some times, X-ray examinations. It is strange why the parents, who are sure that their children are unhealthy, had to pay to prove it. The recruits, who must be examined according to the direction of their recruiting commissions, stay in hospitals. It happens that they get very superficila or no examination at all. For example, recruit O. Who complained at toxico-allergic reactions, stayed in the special ward of a hospital, but was not examined at all. He was not given any allergic test, but he got the diagnosis «practically healthy». Recruit P., who has a sugar diabetes from his childhood, after staying in one of the city hospitals, got the diagnosis: «bad tolerance to carbohydrates». Now he will undergo additional tests. This controversy of interests is very expensive for the society.

We found that recruits and their parents do not know Article 15 of the Ukrainian law «On introducing changes to the law on the universal military duty and military service». That is why they await call-up papers instead of coming to recruiting commissions within one month after the declared mobilization. As a result, some of them are fined.

Conclusions:
About 20% of young soldiers recruited from Kharkiv and the Kharkiv oblast are unable to fulfil their service duties completely. It results in moral and material damage for the armed forces and for the state as a whole.

Propositions:
Turn to the Minister of Defense with the proposition to return to the restrictions on the insufficient weight of recruits, which was abolished by Order No. 207 of 12 July 1999.

Turn to the Kharkiv oblast administration with the proposition about the creation of the program of rehabilitation for youths having the weight deficit.

To perfect the procedure of medical examination, in particular, during the previous registration, to interview recruits individually, not collectively.

To increase the responsibility of medical commission members for the quality of their work. Until the professional army is organized in Ukraine, the recruiting commissions must call to the army only such persons ho are able to fulfil their service duties.

To turn to the oblast education department with the request to information future recruits and their parents about their rights and duties during the recruiting campaign and about the procedure of medical examination.

To recommend to doctors working with youths to examine future recruits, finding diseases and treating them in the proper time. To inform such doctors about Order No. 207.

To oblige the oblast health protection department to provide the high-quality free examination of recruits.

P. S. After this article was already printed in the Russian version of «Prava ludyny» the Kharkiv Union of soldiers’ mothers received a letter from a military
unit. We want to quote this letter: «We need your help very much... This spring we have not got recruits from Kharkiv or the Kharkiv oblast. We got recruits from Odessa and Nikolayev, where no work like yours is conducted. We have already demobilized many recruits from these oblasts of the spring call-up».

«Prava Ludyny», November, 2000

Bribe-taker is a head of a village council

Sergey Petrenko was a head of the second department of the Lutuginsk district military commissariat and in 1996 he was elected as the head of a village council. Such combination of jobs permitted him to invent a good method for increasing his prosperity. Petrenko proposed to a recruit Petr Ivanenko a way how to dodge the army service. The recruit had to pay «only» 400 USD. The official warned Ivanenko, that if he did not agree, the lieutenant colonel would send him to a construction battalion, to serve with formal convicts. Having got the money, Petrenko issued a certificate that Ivanenko had two sons (according to the law, a man cannot be recruited to the army, if he has two children. – Translator’s note).

Ivanenko had to pay for this certificate every year, until he became 27 and exceeded the recruiting age. At last, this year the lieutenant colonel was caught red-handed while taking a bribe of 200 USD.

All the names here are changed.

«Luganska Pravda», brief interpretation by Irina Svetikova

Some conclusions on the recruiting campaign of spring-2000

Maria Shutaliova, Kharkiv

During the spring and autumn recruiting campaigns of 2000 representatives of the Kharkiv Union of soldiers’ mothers took part in the work of the recruiting commission, where the reports of military commissars of many districts of the city and oblast were delivered.

The main problems, which arose during the campaign were the recruiting of the sick and non-coming of recruits to recruiting commissions.

The problems with the sick were, after all, somehow solved: they were given the opportunity of the additional medical examination, delays for treatment with the following examination to determine whether they became able-bodied. But the question of non-coming was comparatively new. When asked about the reason of non-coming the recruits referred to not receiving of call-up papers. The matter is that some changes and additions were introduced to the Ukrainian law «On the total military duty and military service». So, Article 15 of the new edition of this law stipulates: «In the case of not receiving the call-up papers, recruits must come to recruiting commission during one month from the publication of the President’s decree». I personally understand the boys, who cannot afford buying newspapers and thus are unable to learn about the President’s decree, which was published as early as in August. Besides, nobody instructed them on the changes and additions in the law, since in many schools there are no qualified teachers of military training. It is clear that such information must be conveyed to recruits-to-be by such teachers or teachers of jurisprudence. That is why in every educational establishment for younger pupils there must be «a room of a recruit». The necessary information concerning the operating laws concerning recruits and their rights, such as advice of the union of soldiers’ mothers, doctors and lawyers, must be available. Having in mind that one of the goals of the Kharkiv Union of soldiers’ mothers is education, while the recruiting commissions are also interested in informing recruits, this form of informing recruits’ interested the military, who also would be able to convey the needed information to recruits. And during the work of the recruiting commission the oblast military commissar ordered to all heads of district recruiting commissions and district military commissars to participate at once in organizing such «rooms of a recruit».

«Prava Ludyny», November, 2000

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Violations of human rights in the army
Kharkiv Union of soldiers’ mothers

Ukraine, as most of post-Soviet countries, has the army, whose structure, principles of forming and service conditions are inherited from the Soviet army, with all its drawbacks and genetic deficiencies. The Ukrainian army, according to the official doctrine, must defend the state from the external aggression. From 1997 to 2000 it was reduced from 370 to 310 thousand, and by and by it prepares to pass to the contract system. The reform must be completed till 2015.

Yet, even in the reduced form, the army suffers from the same hardships and economic difficulties, as the entire society. It is impossible to understand the roots of violence in the army without analyzing all stages when the rights of mobilized youths are abused.

The violence in the army, that is criminal or administrative offences the rights of an individual, is caused by a number of abuses of human rights during the recruiting campaign and the life in the barracks. That is why we must analyze these abuses one after another.

1. RECRUITING CAMPAIGN

At this stage some rights are abused which, according to our experience, later become very important. We think that the violations are due to the following reasons.

1. Economic.

Parents of the future recruits have not money to examine and treat their children in time. Medical establishments, especially in rural areas, are not duly equipped and staffed. The number of adolescent doctors is diminishing.

2. Corruption during the recruiting campaign.

We come across vice of the system not very often, since, as a rule, those who turn to us are poor. But the newspapers «Fakty», «Vechirniy Kharkiv» and others even gave the exact sums to be paid to free a healthy recruit from army service. And then the place of the healthy is taken by the sick.

3. Ignorance of the population of their rights.

Citizens of Ukraine are ignorant not only of the laws in this sphere, but also of their own health (especially in the rural areas).

All this causes that the sick youth are often enlisted to the army. Especially dangerous is the penetration of people with psychic deviations to the arms. They are the first, who become victims of violence or they commit violent actions themselves.

So, during 1998-2000 we dealt with 18 deserters, 9 of which were later dismissed due to psychic diseases (Kharkiv Union of soldiers’ mothers insisted on the additional examination). Not-able-bodied soldiers suffer from their inability t adequately fulfil their duties, because they cannot bear the loads of a modern army. The recruiting of sick youths that contradicts Article 18 of the Law of Ukraine «On the total military duty and military service» is not only a crime against the youths and the army, but also a social danger.

Drawbacks in the Law, as well as a low level of control in medical establishments, cause the growth of the irresponsibility.

As a rule, the «responsibility» comes only after getting a bribe by a medic or an officer of a recruiting commission (which is difficult to prove, so it is uncovered very seldom).

We apply at this stage the method of studying the quantity of recruits by monitoring in army units. Having analyzed the results, we turn to the authorities, recruiting commissions and specialized medical establishments. We also use the method of preventive visits to recruiting commissions, talks with parents and teachers. We pass the complaints of the parents to recruiting commissions and analyze together the causes of the complaints and possible consequences.

II. VIOLENCE DURING THE ARMY SERVICE

1. Such a notorious phenomenon as dedovshchina, when old soldiers responsible for functioning and training of younger soldiers, was inherited from the Soviet army. In such units the old soldiers usurp the duties of officers. This phenomenon is born by passivity of underpaid officers and their irresponsibility for what happens in the unit.

It is in such units where the cruelest conditions are formed, where the dignity of a soldier, his personal inviolability and even his life are endangered.

2. The Law «On the total military duty and military service» and other legal acts do not stipulate criminal responsibility of officers for the disorder in the unit. Even if the dedovshchina in the unit has serious consequences (a soldier committed suicide, or murder, or deserted), the responsibility is put on the direct participants of the events.

It should be noted that the Ministry of Defense always reacts to such incidents, considering the situation as a disciplinary one and dismissing the guilty officers. Yet, in most foreign countries, where the mass army still exists, the responsibility of the officers is criminal.

3. A real mechanism for protection the rights of servicemen does not exist. According to the Articles of War, a soldier has the right to turn with a complaint only to his direct commander. But if the commander himself entrusted old soldiers to keep the discipline in such a way, than the complaint will be senseless. Soldiers’ complaints to the garrison prosecutor’s office also are fruitless, since the prosecutor’s office defends the officers of their garrison and not the rights of servicemen. This results in the system, when cases of suicide are considered by civil prosecutor’s offices, which are biased; the witnesses among soldiers are either not interrogated or intimidated. The prosecutors do all they can in order to shield officers. As a rule, a suicide is not ended in opening the case according to Article 99 of the Criminal Code of Ukraine («driving to suicide»), although all the materials of the case confirm that. Sometimes the conclusions of regional prosecutors are amazing. We have come across to the case, when a young man with two bullet wounds in the forehead was considered to have committed a suicide. Another astonishing case happened with to privates, who agreed to have met with the third one in some place; when the third one came, he found his friends hanged. The prosecutor concluded that the two soldiers committed suicide.
The results of forensic expertise are rather variable and usually they change for closing the case in the most innocent way.

Kharkiv Union of soldiers’ mothers knows a lot of cases when nobody did nothing in order to establish the truth.

The situation with deserting is not less obscure. Recently the Main military prosecutor’s office of Ukraine, having confessed that some servicemen deserted their units because of “unbearable conditions” (dedovshchina, diseases, etc.) appealed to the deserters to give themselves up and come to prosecutor’s offices. If the causes of their escape are considered mitigating, they will be pardoned.

Not all regional prosecutor’s offices executed the order of the Main prosecutor’s office. We have come across cases when regional prosecutors demanded bribes (Lviv) or did not close the cases (Kharkiv, the Crimea). All this was done although it was obvious that the soldiers escaped from their units either because of dedovshchina or because of the diseases that were not treated or because they were unwilling to be dragged to some criminal activities by officers or older servicemen.

All these cases illustrate well that a serviceman does not know real mechanisms of protecting his rights, if any exist. Not a single amendment to the Law «On the total military duty and military service» promotes the creation of such mechanisms.

It should be noted that servicemen are often used at works not connected with their service. This phenomenon is so common that it does seem strange either to officers or soldiers. The public is also very cool about this. There are many few complaints about coercive work, as a rule they are mentioned in connection with other complaints, by we learn that such works are quite usual from soldiers in hospitals or from demobilized soldiers.

III. ALTERNATIVE SERVICE

Usually that is a defected law that causes violations of personal rights. The Ukrainian Law «On the alternative service» may be an example. First of all, this law does not mention pacifists, those, who refuse to take arms not because of religious, but of political motives. Article 65 of the Constitution is vague and requires additional interpretation. Besides, the Law includes the opportunity of the direct violation over believers, since Article 8 of this law envisages that a person, who executes the alternative service inadequately, may be sent to the army upon the decision of the recruiting committee.

We have developed methodical materials for the servicemen and their parents about how to behave in the above-listed cases. As to the question of suicides, we have never manages to start a criminal case about «driving to a suicide», which testifies that the article is impractical.

Recently Kharkiv Union of soldiers’ mothers compiled instructions for servicemen containing concrete advice about the protection of their rights. We questioned parents of demobilized servicemen and the servicemen, who turned to our organization for help. We are sure that, even having such incomplete laws, a soldier can protect himself, of he knows his rights, if his parents and public organizations help him. On the contrary a youth, who does not know his rights, who does not have assistance from his parents and who does not know where to turn outside his military unit, will have great difficulties in protecting himself.

We suggested amending the laws in such a way that an independent juridical consultations were created at oblast executive committees – hotlines, which could be used free of charged by any serviceman. Unfortunately, these amendments were not introduced.

To sum up, violence in the army is mainly due to the following factors:

Defects of the operating laws on the army.

Insufficient public control over the human rights protection in the army (although it should be noted that the Ukrainian army is perhaps the only enforcing structure that willingly cooperates with public organizations).

Absence of the mechanism of protecting servicemen’s rights, since the existing system of regional military prosecutor’s office and martial courts do not guarantee the protection; absence of professional legal counselors in military units.

Recruiting to the army of badly examined by medics or not examined at all youths, who later appear to be psychically of physically sick.

Low level of the common and legal education among recruits.

Low level of interest in the results of their work among underpaid officers.

Absence of administrative or criminal responsibility of medical and recruiting commissions and officers for results of their work.

M. Library prosecutor’s office is investigating cases of dedovshchina

The Kharkiv oblast Union of soldiers’ mothers

Five criminal cases on dedovshchina were started this June. One of them concerns three servicemen of the military-constructive faculty of Kharkiv technical university of construction and architecture, the military prosecutor’s office of the Kharkiv garrison informed.

The investigating officers found out that, cleaning the soldiers’ canteen, the accused decided that the private on duty badly cleaned and washed up. The punishment followed, during which the private got many grave injuries. The investigation classified the actions of the servicemen as violating Articles of War and Article 238 «B» of the Ukrainian Criminal Code.

Quality of the autumn recruiting campaign of 2000

The Kharkiv Union of soldiers’ mothers permanently monitors the quality of recruits from Kharkiv and the Kharkiv oblast. The monitoring of the autumn recruiting campaign of 2000 was conducted with the support of International fund «Vidrodjennia» and National Institute of democracy.

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We sent questionnaires to all military units, to which recruits from Kharkiv and the oblast had been directed. The number of the officers, who answer our questionnaires, grows from year to year. From many military units we received not only filled in questionnaires, but also accompanying letters, in which the officers, commanders and their deputies in indoctrination, write about their problems. The real care of servicemen and army is felt in these letters. This testifies that commanders sympathize with our studies and find our work useful. This also shows that the armed forces by and by a structure more open for public control.

Table 1

<table>
<thead>
<tr>
<th>Recruiting campaign</th>
<th>Number of distributed questionnaires</th>
<th>Number of answers</th>
<th>Percentage of answers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>44</td>
<td>10</td>
<td>22.73%</td>
</tr>
<tr>
<td>Spring 2000</td>
<td>77</td>
<td>35</td>
<td>45.45%</td>
</tr>
<tr>
<td>Autumn 2000</td>
<td>70</td>
<td>34</td>
<td>48.57%</td>
</tr>
</tbody>
</table>

In the military units, about which we have information, 1346 soldiers of the autumn-2000 call-up are serving, which makes about 60% of the total number of the recruits (2280 persons). To compare, we had the information about 50.57% of recruits after the spring campaign of 2000.

Table 2

<table>
<thead>
<tr>
<th>Among them:</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Got into hospitals or medical units within the first month of service</td>
<td>115</td>
<td>8.5</td>
</tr>
<tr>
<td>Have chronic diseases, which got more acute in the beginning of the service</td>
<td>27</td>
<td>2.01</td>
</tr>
<tr>
<td>Have deviations in behavior, have criminal records, used narcotic drugs</td>
<td>68</td>
<td>5.05</td>
</tr>
<tr>
<td>Have suicidal inclinations</td>
<td>75</td>
<td>5.57</td>
</tr>
<tr>
<td>Recruited with the violation of laws (have the right for postponement by Article 17 of the Law “On military duty”)</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Concealed chronic diseases from medical commission to get to the army</td>
<td>10</td>
<td>0.74</td>
</tr>
<tr>
<td>Declared their unwillingness to serve</td>
<td>3</td>
<td>0.22</td>
</tr>
<tr>
<td>Attempts of desertion</td>
<td>1</td>
<td>0.04</td>
</tr>
<tr>
<td>Suicidal attempts</td>
<td>1</td>
<td>0.074</td>
</tr>
<tr>
<td>Are essentially underweight</td>
<td>51</td>
<td>3.78</td>
</tr>
</tbody>
</table>

Commanders of 12 military units (15%) have no claims to the quality of recruits. During the spring campaign the corresponding number was 28.57%.

The question: «How many recruits from this call-up, in your opinion, are incapable of service?» was answered by not all commanders. They preferred not general evaluations, but facts. Yet, about seven soldiers the commanders were categorical. This means that seven recruits (0.52%) were certainly not able-bodied. We think that this number is substantially underestimated. By analyzing the questionnaires, we conclude that most of the recruits, who got into rows 1-10 of Table 2, are not able to be adequate soldiers. This means that the percentage of reject is about 18%.

Let us compare these data with those of spring-2000.

Table 3

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>119</td>
<td>11.73</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>115</td>
<td>8.5</td>
</tr>
<tr>
<td>Dynamics</td>
<td>–4</td>
<td>–3.23</td>
</tr>
</tbody>
</table>

Have chronic diseases, which got more acute in the beginning of the service

Table 4

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>40</td>
<td>3.94</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>27</td>
<td>2.01</td>
</tr>
<tr>
<td>Dynamics</td>
<td>–13</td>
<td>–1.93</td>
</tr>
</tbody>
</table>

Have deviations in behavior, have criminal records, used narcotic drugs

Table 5

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>16</td>
<td>1.58</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>68</td>
<td>5.05</td>
</tr>
<tr>
<td>Dynamics</td>
<td>+52</td>
<td>+3.47</td>
</tr>
</tbody>
</table>

Have suicidal inclinations

Table 6

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>56</td>
<td>5.52</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>75</td>
<td>5.57</td>
</tr>
<tr>
<td>Dynamics</td>
<td>+19</td>
<td>+0.05</td>
</tr>
</tbody>
</table>

Concealed chronic diseases from medical commission to get to the army

Table 7

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>25</td>
<td>2.46</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>10</td>
<td>0.74</td>
</tr>
<tr>
<td>Dynamics</td>
<td>–15</td>
<td>–1.72</td>
</tr>
</tbody>
</table>

Declared their unwillingness to serve

Table 8

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>5</td>
<td>0.49</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>3</td>
<td>0.22</td>
</tr>
<tr>
<td>Dynamics</td>
<td>–2</td>
<td>–0.27</td>
</tr>
</tbody>
</table>

Attempts of desertion

Table 9

<table>
<thead>
<tr>
<th>Campaign</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>3</td>
<td>0.29</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>1</td>
<td>0.074</td>
</tr>
<tr>
<td>Dynamics</td>
<td>–2</td>
<td>–0.216</td>
</tr>
</tbody>
</table>

Suicidal attempts
Dynamics 0 – 0.026
Autumn-2000 1 0.074
Spring-2000 1 0.1

The question about the underweight was not included into the spring questionnaire, so it is impossible to make the comparison. Some commanders, answering the spring questionnaire, wrote that underweight recruits couldn’t be good soldiers; that made us include the question to our next questionnaire. Is it reasonable to recruit young men with dystrophy? Some think that these men will come to the norm during the service. We disagree with this fantasy – army is not a sanitarium. Such soldiers are unable to overcome the difficulties of the military service. We insist that such boy must go through a program of rehabilitation that will enable the boys to become able-bodied. We consider that the Kharkiv oblast administration and Kharkiv city council could find finances to medically examine 50 boys and send them to proper sanitariums for cure and rehabilitation, and thus avoid the shame of directing dystrophic youths to the army.

In general, as one can see from the comparative tables, the choice by medical characteristics has improved, which testifies that members of the medical recruiting commissions understand that it unreasonable to send not-able-bodied recruits to the armed forces. If earlier any complaints at the state of health were estimated as an attempt to dodge the service, now most of such complaints are carefully checked. It follows from the data that the number of recruits, who managed to conceal their diseases, has diminished, which also testifies on better examination. Lately medical commissions never refused the requests of the Union of soldiers’ mothers to additionally examine a recruit. Unfortunately, cases are known when the medical inspection was careless and dishonest. It especially concerns those, who have allergies. In some medical establishments the personnel takes money from recruits and their parents for analyses. We consider it inadmissible. In some expert medical departments and laboratories the quality of the medical equipment is inadequate. So, neurologic examinations made in city hospital No. 20 and the medical department of «Turboatom» plant are often unconfirmed by additional examinations in medical establishments of higher level. TB dispensary No. 1 has no equipment for the needed biochemical inspections at all. All the listed drawbacks worsen medical examination of recruits.

To illustrate, we shall list several examples. Private Ya., called by Moskovskiy district recruiting commission (DRC) of Kharkiv, spent his first months of service in hospital: painful osteochondritis of the rib-case, scoliosis. Private P. came to his military unit without completing his treatment of acute pneumonia; private T. Came to the place of service on 20 December 2000 with the remaining phenomena of the cerebral brain trauma that he got on 23 November 2000. They both had to stay at a hospital to rehabilitate. Could the commission wait a little until the boys got healthy, and they call them to the army?

It is also disturbing that some boys (about 8%) turned to medics at once after arrival in their units. They complained at catching cold and disordered stomach, which testifies of improper conditions either at assembly points or during the transportation. All this requires additional studies.

The sick may not be called to the army. They cannot serve properly, they become objects of dedovshchina, they desert of commit suicides. The call of mentally abnormal youths is especially dangerous: the danger threatens not only them personally, but also people near them. That is why the data from tables 5 and 6 cause alarm. For example, private S., called by Kharkivskiy DRC, suffers from schizophrenia, privates S. (Leninskiy DRC) and B. (Dergachevskiy DRC) have suicidal attempts in the anamnesis, private V. (Vovchanskiy DRC) suffers from enuresis. Viacheslav S. was demobilized from the army according to Article 146 «Psychotic and non-psychotic psychic disorders caused by organic damage of the cerebral brain accompanied by moderate psychic disturbances».

Many respondents of ours note that the number of recruits, who have not finished secondary schools, is growing. Some of the recruits have not finished even middle grades, have criminal records, take or took narcotic drugs. «The work of the commission of studying moral and working features, professional and physiologic selection showed that 36% of young soldiers have 4 group of neuro-psychic stability, 22% are related to the «risk group» since they have suicidal inclinations, 8% have criminal records... Servicemen having behavioral deviations and related to the risk group undergo individual psychological work, the control over their activities is increased...» – writes the commander of a military unit. How easier the work of officers would have been, if only physically and psychologically healthy recruits had got to the army! The officers could have concentrated their efforts on the proper military training of the subordinates.

One of the letters from officers we want to quote almost fully: «... 161 recruits from Kharkiv and the Kharkiv oblast were sent to our unit. Upon the whole, we are satisfied with them. Most of them are able to fulfill fully their service duties; moral and physical conditions of recruits-Kharkivites make them adjustable for the military profession and joining the collective. However the social and economic problems of our society are characteristic of these recruits too. More than 40 recruits grew in incomplete families, 10 – in unfavorable families, 15 – tasted narcotic drags before the army. They had problems with their elementary military training at schools and other educational establishments. These and other problems mentioned in the questionnaire must be taken into account by recruiting commissions». Some other letters also note the low level of the recruits’ calisthenics and the level of pre-army training.

We have received encouraging answers too, as in the previous poll. For example, the officer from a training military unit wrote: «The fact that 80% of Kharkiv recruits could pass the test of their moral and physical

<table>
<thead>
<tr>
<th>Campaign</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Spring-2000</td>
<td>1</td>
<td>0.1</td>
</tr>
<tr>
<td>Autumn-2000</td>
<td>1</td>
<td>0.074</td>
</tr>
<tr>
<td>Dynamics</td>
<td>0</td>
<td>−0.026</td>
</tr>
</tbody>
</table>
features and can fulfill their duties in serving with arms is a proof of the high-quality preparation to military service and positive motivation for mastering military arts. Recruits from Kharkiv serving in our unit showed the best result compared to recruits from other regions of Ukraine».

On the one hand, it is pleasing to know that recruits from Kharkiv and the Kharkiv oblast are somewhat better prepared for army than youths for other regions, but, on the other hand, why to call to the army people, who may not be entrusted weapons? After the previous polls we came to the conclusion that 18-20% of recruits are unable to fulfill their military duties. This one fifth does make the risk group, which serves as nutrient medium for dedovshchina, suicides and desertions. The fact that the state in other regions is even worse does not console us. One must not refer to «social and economic problems». Yes, we have difficulties, but they will not disappear if 800-100 persons per year are excluded from the economic life and sent to the army, where they are useless at best, or dangerous at worst. In general, the dedovshchina in the army reflects in civil life and then returns back to the army. This chain reaction should be broken, for which both the army and the society as a whole should be invigorated.

We believe that our previous report that was sent to the Ministry of defense, Kharkiv oblast recruiting commission and Kharkiv city council was accepted by the corresponding authorities with comprehension. The Kharkiv city council held a session, at which the participants listened to the report «On the state of training of youth of pre-army and army age of Kharkiv for the service in the armed forces of Ukraine» and approved the decision about the improvement of such training. Kharkiv city educational department distributed in schools the brochures for future recruits and their parents. The brochure was compiled the Kharkiv Union of soldiers’ mothers. Representatives of our NGO were included into recruiting commissions with the right to advise. All this confirms that the Kharkiv authorities’ attitude to the recruiting problems is responsible, and that they are ready to cooperate with NGOs.

Almost every family is connected with army problems in this way or another, so such problems worry the whole society. So it is not surprising the Union of soldiers’ mothers is a rather important organization in Ukraine.

The Kharkiv oblast Union of soldiers’ mothers insists on the creation of the professional army in Ukraine. Yet, while the common military duty exists, we shall insist on the proper choice of recruits: only physically and mentally healthy and properly trained youths must get to the armed forces.

«Prava Ludyny», September, 2001