

AGAINST TORTURE

**Review of messages on torture and cruel treatment
in Ukraine
(June 2001 – December 2002)**

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KHARKIV HUMAN RIGHTS PROTECTION GROUP

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Designed by Boris Zakharov

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Fragments of the triptych «The Garden of Delights»
by Hieronymus Bosch is used for the cover

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1. USING LAW-ENFORCING AGENCIES IN POLITICAL STRUGGLE

Advocate Salov's case

On 15 June 2001 the Voroshilov district court of Donetsk satisfied advocate Salov's claim against the town prosecutor's office and militia. The claim concerned «the torture and degrading treatment during investigation». As the claimant affirms, he was kept in the only cell without a bunk, so he had to sleep on the bare floor. After several months staying in the preliminary prison his health deteriorated. The claimant demanded the compensation of Hr 50 thousand. The court ruled to satisfy the claim partly and to enforce the Donetsk town prosecutor's office and the Donetsk militia directorate to pay Salov Hr 1.5 thousand each as the compensation for moral damage.

Yet, the accusation of Salov is not taken off. On 31 October 1999, on the eve of the presidential election, Salov found in his mailbox the parliament newspaper «Golos Ukrainy», which informed of Leonid Kuchma's death. It was a fake, and Salov did not take part in its printing. He showed this newspaper to a few people and was arrested for spreading false rumors. Salov was accused of violating Article 127 of the Ukrainian Criminal Code «Preventing to realize the right for election». For this «crime» in July 2000 Salov was convicted to five years of incarceration with the postponement of the verdict for two years. Before the trial he was kept in the preliminary prison.

*Our informant
«Prava Ludyny», June, 2001*

Again about advocate Salov's case

The bulletin «Prava ludyny» more than once wrote about the case of advocate Sergey Salov. In our opinion, it was the only case in the independent Ukraine, which may be classified as persecutions for one's opinions.

The accusations against Salov were not canceled.

We want to remind our readers the situation. On the eve of the presidential election of 31 October 1999 Salov found an issue of the newspaper «Golos Ukrainy» in his mailbox. The newspaper informed that President Leonid Kuchma had died. The newspaper was faked, and Salov was not related to its fab-

rication. Salov showed the newspaper to several his acquaintances and was arrested. Advocate Salov was accused of violating Article 127 of the Criminal Code of Ukraine «Preventing the election right». In July 2000 Salov was condemned for this «crime» to five years of incarceration with the postponement of the verdict for two years; before this he stayed in the preliminary prison.

On 15 June 2001 the Voroshilovski district court of Donetsk satisfied the claim of advocate Salov against the city prosecutor's office and city militia «for humiliation and torture during the investigation». The plaintiff asserts that he was kept in the Donetsk preliminary prison in the only cell without bunks, and he had to sleep on the bare floor. After Salov spent several months in the preliminary prison, his health deteriorated. He demanded compensation sum equaled 500 thousand UAH. The court ruled to satisfy the plaintiff's demands partly and to extract from the city prosecutor's office and the city militia directorate 1.5 thousand UAH as the compensation for the moral damage inflicted to Sergey Salov.

The Donetsk prosecutor's office protested against the decision of the Voroshilovski court to the appeal court. The latter confirmed the decision in favor of Salov, but the prosecutor's office handed the cassation against this decision too. Now, at last, the Supreme Court put an end to this long-drawn case.

On 23 May the Court Chamber of the Supreme Court of Ukraine in charge of civil cases considered the cassation of the Donetsk oblast prosecutor's office against the decision of the Voroshilovski district court of Donetsk and the ruling of the judicial chamber of the appeal court of the Donetsk oblast, which regarded the actions of the city prosecutor's office connected with the detainment, arrest and holding in custody of advocate Sergey Salov as illegal.

The Court Chamber of the Supreme Court acknowledged the fact of violating Salov's constitutional rights and inflicting him the moral damage equal to 3000 UAH, which must be recompensed by the state. The decision is final and may not be appealed.

Our informant
«Prava Ludyny», May, 2002

Case of Boris Feldman and the bank «Slavianskiy»

(Press-release of the attorney firm «Ageev, Berezhnoy and partners»)

The authorities did not care to give the trial over B. Feldman even the semblance of legal correctness.

After the court robbed Boris Feldman and his advocate of the opportunity to take part in the debates, judges of the Artemovsk court of Lugansk committed another offense against justice: they ruled to deprive Feldman of his last plea and to move him off the courtroom.

At the court session on 17 April 2002 Feldman tried to continue his last plea. We stress that Feldman did not brake order during the trial, he spoke calmly and touched only upon the questions directly connected with the case. On that day Feldman told what position he occupied in the bank, explained some aspects of the bank activities and commented from this viewpoint the information stated in the accusation act.

Unexpectedly presiding judge Stanislav Lubianoy announced that the judges would retire to the conference room to decide if Feldman may be permitted to continue his speech.

After returning from the conference room judge Lubianoy declared the decision. The decision read: «In his last plea the defendant began to expound the arguments and reasons, which he had already stated being interrogated as an accused, to pronounce political declarations, to insist upon the political, ordered character of the case, to express negative opinions about the investigating officers, experts and other persons involved in the investigation, to threaten the prosecutor's officers participating in the case, to quote some excerpts from textbooks on criminal law». (It should be noted that Feldman did not threaten the prosecutor's officers, but tried to explain them that, supporting the accusation possessing no corpus delicti, they violated law, and proposed them to refuse from the accusation, since it was obviously groundless).

The decision ruled by the court was astonishing: «to deprive Feldman of the last plea and to move him off the courtroom».

After this judge Lubianoy declared that the bench would leave to take the verdict.

Thus, probably, the verdict will be announced in the absence of Boris Feldman. It seems that the judges have not enough courage to read the verdict in his presence.

Not long before Boris Feldman, having finished the analysis of the first episode of the accusation, where he indisputably demonstrated the absence of the event of crime, addressed prosecutor Sergey Burdeyny: «You demand to condemn me to nine years with confiscating the property? And can you look in my eyes?» The eye-witnesses saw how S. Burdeyny, the head of a department of the General prosecutor's office and a senior law counselor, bowed his head low. He really did not dare to look in Feldman's face. It is difficult to imagine a greater disgrace for a state prosecutor.

The court ruling about depriving an accused of his last plea is unprecedented in all the history of the Ukrainian justice. The operating criminal-procedural laws directly point out that a court has no right to limit the time of the last plea, and that an accused may be moved off the courtroom only if he brakes order during the trial.

The position of B. Feldman's advocates is that, having ruled such a decision, the judges committed crimes against justice, namely the crimes envisaged by Article 365 (misuse of power and service authorities), Article 374 (abusing the right for defense) and Article 375 (ruling a deliberately illegal decision) of the Criminal Code of Ukraine.

The court announced the break until Friday, 19 April, 3 p.m.

To sum up, the judges made a great number of various violations: passing the case to the trial, which territorially has no right to consider the case; depriving advocate of their right to hand petitions and complaints; prohibition to the advocates to communicate with Feldman in court building; refusal of the judges to consider the challenges; illegal threats concerning the advocates; drawing the advocates to the disciplinary responsibility initiated by judge Lubianoy; starting debates before finishing the court investigation; denying Feldman and his advocates the right to speak during the debates, and so on. Certainly, after all this, the verdict was predictable.

It is difficult to say, why the authorities needed this process, why they did not announce the verdict at once, like in Stalin's time? To create the illusion of justice? Yet, it is obvious that there was not even such an illusion. Why the ruling about prohibiting the last plea began with the words: «The last plea of a defendant is his unalienable right guaranteed by the Constitution and protected by court?» Why the judges needed to draw attention to the fact that they robbed the accused of his unalienable right? To stress the cynicism, with which they ignored the Constitution? How may judges publicly mock the Constitution and justice in such an insolent way?

Is it possible that the erroneous opinion about their own impunity is so deeply implanted in the judges' brains? But nothing shall be unpunished and forgotten.

In what follows we publish the complete text of the ruling pronounced by judge Lubianoy (transcription from the audio record of the trial).

RULING

17 April 2002, Lugansk

The Artemovsk court of Lugansk consisting of judges Lubianoy, Kosminin and Storozhuk, secretary Beliakova, prosecutors Burdeyny and others, advocates Ageev and others, considered in the town of Lugansk the case of Feldman and Zaslavskiy, and ruled:

The last plea of a defendant is his unalienable right guaranteed by the Constitution and protected by court.

At the same time the contents of the last plea, as well as the time given for it may not be limited. An accused has the right to mention any arguments and reasons defending him. Yet, if the accused uses his last plea for the pur-

poses incompatible with the tasks of justice, the presiding judge has the right to stop him and to warn about the consequences of such behavior. If the defendant does not react properly, the court may rule to deprive the accused of the last plea and to move him off the courtroom according to Article 272 part 1 of the Criminal-Procedural Code of Ukraine (CPC).

Feldman was given the right to declare his last plea, which right he used from 11 to 17 April 2002.

In his last plea the defendant began to expound the arguments and reasons, which he had already stated being interrogated as an accused, to pronounce political declarations, to insist upon the political, ordered character of the case, to express negative opinions about the investigating officers, experts and other persons involved in the investigation, to threaten the prosecutor's officers participating in the case, to quote some excerpts from textbooks on criminal and civil law.

The analysis of the speech of the accused Feldman from 11 to 17 April 2002 in the courtroom testifies on the brutal misuse of his right for last plea, on distorting the very essence of last plea, on using the plea for compromising the principles and tasks of justice.

Being more than once warned about his duty to follow the procedure of the court session, in particular twice, on 11 and 15 April, about the possibility of using against him part 1 Article 272 of the CPC, Feldman drew no conclusions and continued to violate the procedure of declaring the last plea.

Basing on the stated above and on Articles 272 part 1 and 273, the court ruled:

to deprive Feldman of the last plea and to move him off the courtroom.

«Prava Ludyny», May, 2002

Advocates of Boris Feldman handed an appeal

Andrey Fedur, the advocate of former vice-president of the bank «Slaviankiy» B. Feldman, appealed against the decision of the Artemovsk court of Lugansk. The court condemned Feldman to nine years of incarceration with confiscation of the property and without the right to hold top administrative posts. As A. Fedur informed on Thursday, the appeal against this court decision was handed to the Appeal court of the Lugansk oblast. In this documents the advocates state that «they regard the decision of the local court as illegal» and that «the case of the bank «Slaviankiy» must be closed». According to the advocate, he did not manage to get in the Artemovsk court the case materials for preparing the appeal. «The judge officially refused to give me the materials, and the law envisages only 15 days for preparing the appeal, so I had to write it having no documents concerning the case», Mr. Fedur told. He also in-

formed that, since the judges did not grant to the advocates the case materials, the latter also handed the complaint about violating the right for defense to the prosecutor's office of the Lugansk oblast. The advocate especially stressed: «Since the appeal was handed, the verdict of the Artemovsk court did not come into effect, thus Feldman cannot be considered guilty of any crime».

On the session of the Artemovsk court Feldman was acknowledged guilty in two episodes of the criminal case: in misappropriation of 7.4 million UAH and in dodging taxes on the sum of more than 1 million UAH.

The criminal case against the administration of the bank «Slavianskiy» (7 persons) was started by the investigation department of state tax militia in January 2000. They were blamed for especially serious theft of property on the total sum of 11 million UAH, misuse of power that led to the material damage equal to 335 million UAH, dodging taxes on the sum more than 5 million UAH and forgery.

«Prava Ludyny», May, 2002

Press release of the attorney firm «Ageev, Berezhnoy and partners»

On 17 May 2002 advocates Viktor Ageev and Andrey Fedur handed to the Shevchenkivskiy district court of Kyiv the claim in the interests of Boris Feldman, the vice-president of the bank «Slavyanskiy».

In their complaint the advocates asked the court to acknowledge as illegal the actions of Nikolay Azarov, the head of the State tax administration of Ukraine, and the actions of the tax administration as such, on behalf of which N. Azarov acted. The matter is that Mr. Azarov distributed the information, which was later made public by mass media, that «the talk between President Kuchma and Nikolay Azarov concerning the bank «Slavyanskiy», which was allegedly recorded on the tapes presented by Nikolay Melnichenko, was faked by the order of Boris Feldman, the former vice-president of the bank». This information was given by N. Azarov on 16 May 2002 at the press conference in the State tax administration and published by several Ukrainian mass media. The statements that B. Feldman is somewhat connected with this montage are false and damage dignity and business reputation of Boris Feldman. The advocates hope to interrogate Nikolay Melnichenko, Nikolay Azarov and Leonid Kuchma during the investigation and to conduct expertise of the corresponding fragments of the records promulgated by Melnichenko. The advocates want to solve the questions whether these audio records are authentic and whether they were fabricated «by the order of Boris Feldman». In the opinion of the advocates, this trial will be of great public importance, since for the first time the Ukrainian court will have an opportunity to analyze the authenticity of Melnichenko's records and get his evidence.

Besides, as Ukrainian mass media reported about the press conference, N. Azarov, being a state official, asserted that B. Feldman was involved in «criminal activities», thus abusing Feldman's rights and benefit of the doubt principle. Evidently, speaking about the decision of the Artemovsk town court on B. Feldman's case, Azarov did not take into consideration that this decision had not become operable, that the trial would be held in the appeal court, and that Boris Feldman might not be regarded as guilty by state officials. The mentioned statements by N. Azarov may be assessed as an attempt to influence the appeal court.

The advocates ask the court to make Nikolay Azarov and the State tax administration to refute officially the information about the «criminal activities» of Boris Feldman and about his connection to faking N. Melnichenko's audio records.

The full text of the complaint is placed on the site of the attorney firm «Ageev, Berezhnoy and partners» – <http://ageyev.org/cases/feldman/azarov/-claim17.05.02.htm>

«Prava Ludyny», May, 2002

Criminal case started against an advocate in the case of UNA-UNSO

Tetiana Movtian, the advocate in the case of the UNA-UNSO, informed that on 22 May 2002 the final version of accusation against her was presented, and it was announced about the end of the preliminary investigation in her case. As we informed before, T. Movtian defended Andriy Shkil in the case of the UNA-UNSO. The case was started against her by the prosecutor of Kyiv for resistance to militiamen, and she was debarred from the participation in the trial. Ms. Movtian is blamed for her alleged hitting the guard, who intercepted the note passed to her by the accused from the cell. Thus, according to the accusation, the resistance to militiamen consisted in the fact that the advocate tried to prevent the interception of the note passed by the defendant to the courtroom for his advocate. Tetiana Movtian is defended by her husband Yuri Vasylenko, a judge of the appeal court of Kyiv.

Tetiana believes that the case against her was faked, since the facts mentioned in the resolution did not take place, and the investigation collected no proofs confirming her blame except the evidence of the «victim». Ms. Movtian is sure that the reason for starting the criminal case against her is the revenge of judge Ivan Volik for her work as an advocate in the UNA-UNSO case. It is not known yet to which court the case will be directed. Yuri Vasylenko expressed the hope that the case would not be considered in Lugansk, as it frequently happens lately. (One may recollect the reaction of Andrey Fedur at

the information about passing B. Feldman's case to Lugansk: «I am glad that the Sakhalin Island and Dezhnev cape are not in Ukraine».)

Viktor Ageev, an advocate

«Prava Ludyny», May, 2002

The court met the demands of left-wing parties

On 30 April the Dzerzhynski district court of Kharkov during six hours held the sitting devoted to the appeal of the city executive committee about the prohibition to communists and socialists to organize the meeting on 1 May. At the same time the city committee permitted the meeting to the parties-members of the political bloc «Za edynu Ukrainu» («For united Ukraine»). Judge Grishchenko partly satisfied the demands of the left-wing parties: their meeting began at 9:15 a.m., at once after the meeting of «Za edynu Ukrainu» has finished.

Our correspondent

«Prava Ludyny», May, 2002

2. INFORMATION ON TORTURE AND CRUEL TREATMENT IN LAW-ENFORCING ORGANS

2.1. SOME GENERAL DATA

«Twentieth patient, who turns to the trauma department of the Lviv city emergency hospital was beaten by militiamen». These data were made public by Yaroslav Knysh, a trauma surgeon of this hospital and a deputy of the Lviv city council, at the meeting with the city inhabitants. Information agency «comments that this is a result of the personal investigation conducted by the doctor. «Every twentieth patient confesses by whom he was beaten, but fancy how many people are afraid to confess», adds Ya. Knysh. It is not known now what was the reaction of law-enforcers.

(«Postup», No. 173, 13-14 November 2001)

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According to the data of the Militia Directorate of the Kharkov oblast, during 10 months of the current year 461 complaints was received from the oblast dwellers on the illegal actions of law-enforcers. The facts described in 17 complaints were confirmed. Among them there are: violations during transporting citizens to militia precincts, ungrounded detentions, impermissible methods of obtaining evidence. After the inspection on the staff held the service investigations 11 militia officers were dismissed from law-enforcing organs and 23 were brought to strict disciplinary responsibility.

(«Zerkalo nedeli», No. 45, 17 November 2001)

* * *

About 300 complaints on violating rights and freedoms of citizens by law-enforcing organs were received this year by the parliamentary committee for struggle with organized crime and corruption. 50 from these complaints concern physical and psychological violence applied to the incarcerated. Genadiy Udovenko, the head of the Supreme Rada Committee in charge of human rights, national minorities and interethnic relations, made these data known at the parliamentary hearings.

The hearings were devoted to the fulfillment by Ukraine the demands of the UNO Covenant against torture and the European Convention on preventing torture. Unfortunately, G. Udovenko said, such cases are far from being exceptional, and the access to the information on using torture is difficult.

Ukrainian ombudsperson Nina Karpacheva stated that she turned to all 27 regional prosecutors of Ukraine with the requests to reconsider the decisions on detaining minors, women and old people. Yet, she told, the majority of the prosecutors did not react to her requests. Nina Karpacheva called a great victory the introduction of the Article on criminal responsibility for using torture to the Criminal Code

(«Prezidentskiy Visnyk», No. 49-50, 7 December 2001)

* * *

During 2000 the ombudsperson received 2209 complaints about inhumane treatment of the suspected in district militia precincts. The Kharkov Group for human rights protection compiles its own statistics of similar cases; they already have a collection of facts, concrete names, dates, numbers and details. All these data describe torture, which, it seems, a psychically normal person could not invent.

(«Ukraina moloda», No. 229, 11 December 2001)

* * *

On the eve of the international day of human rights protection a roundtable was held in the Supreme Rada by the initiative of ombudsperson N. Karpacheva. According to the monitoring conducted by the ombudsperson, only during last year 154 criminal cases were started against the militiamen concerning the crimes accompanied by violence and degrading treatment. 37 out of these cases were considered by courts, 52 law-enforcers were condemned, that is every third of the accused.

However, many facts of lawlessness are still concealed from the public.

(«Rabochaya gazeta», No. 182, 11 December 2001)

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The Ministry of Interior acknowledges that sometimes the law-enforcing officers exceed their authorities, but the administration fights with such phenomena: the special staff program is in operation, a number of internal orders were issued.

According to the data of the Penitentiary Department, only four militiamen were brought to responsibility during three last years, while in 1998-99, according to the information of the Supreme Rada Committee in charge of human rights, national minorities and interethnic relations, the number of such

criminal cases was 194. The most frequent offenses are illegal detention or arrest, refusing the right for defense, intimidating citizens, applying physical and psychological violence. According to Viktor Zubchuk, the State secretary of the Ministry of Interior, in Ukraine from 7 to 15 thousand people get to preliminary prisons every day, and on some days this number reaches 20 thousand.

(«Den», No. 232, 18 December 2001)

* * *

P. M. Opanasenko, the head of the State Militia Directorate of Kyiv :

«will say openly: torture is a distant past, and not only in Kyiv militia. We do not plan to return to 1937. Now the Kyiv militia does everything to guarantee the normal conditions for the detained. This is not a secret that sometimes we solve the nutrition problem at our own expense. We cook the food in the Directorate canteen, and then transport the food to the preliminary prisons»

(«Vechirny Kyiv», No. 58, 20 December 2001)

* * *

Yuri Smirnov, the Minister of Interior, reported that in 2001 186 law-enforcing officers were brought to criminal responsibility, and 50 thousand – to disciplinary responsibility.

(«Ukrainskaya novaya gazeta», No. 1, 2002)

* * *

On 5 February the coordinating conference of the heads of all law-enforcing and controlling organs of our region was held in the prosecutor's office of the Kharkov oblast. The Kharkov oblast governor E. Kushnarev took part in the conference. «In chase of good statistics, in the wish to conceal incompetence, the accounting is in fact falsified, criminal cases are opened illegally», said the governor.

The «leader» in this respect was named: the Moskovskiy district militia precinct headed by colonel V. Kartavykh. Last year this precinct terminated 80 criminal cases because of absence of corpus delicti or the criminal event.

Some law-enforcers use law as a baton with which they achieve illegal aims. The proportion of the closed criminal cases, which was started by tax militia, exceeds 60%. It is difficult to call such the proportion an error, this is an open incompetence or the wish to achieve some personal aims far from supporting the legal order.

«Starting criminal cases without adequate reasons», said governor Kushnarev, «turned into a way of terror against concrete people».

(«Slobidskiy kray», No. 15, 7 February 2002)

* * *

According to the data of the Directorate of the General Prosecutor's office for surveillance over law execution by special troops and other state organs for fighting organized crime and corruption, in 2001 the oblast prosecutors considered 3084 citizens' complaints against officers of the special troops for fighting organized crime and corruption. 2647 complaints concerned actions of the special troops officers during the ODA. The satisfied complaints are mainly the complaints about illegal searches and confiscation, applying illegal investigation methods, actions of special troops connected with bringing citizens to responsibility after the law «the struggle with corruption»

In 2001 prosecutors handed 113 claims about the violations of law, and 280 officers of the corresponding law-enforcing organs were brought to responsibility for violating the operating laws during the ODA. The greatest number of such violations was found in Kharkov, Donetsk, Lugansk and several other oblasts, in Kyiv City and the Crimea.

(«Yuridychny visnyk Ukrainy», No. 6, 9-15 February 2002)

* * *

The so-called institute in charge of the state of discipline and lawfulness was created in the Ministry of Interior and the oblast directorates. At the same time the books for recording appeals, complaints and propositions appeared in town and district law-enforcing organs. Last year the number of criminal case opened against law-enforcers greatly diminished. This year the prosecutor's office started only 8 such cases, whereas the corresponding number last year was 57. 152 law-enforcers were brought to administrative responsibility for corruption. Most of them were officers of road militia, crime investigation, district militia officers, etc., Nikolay Onufriev, the deputy state secretary of the Ministry of Interior, told at a briefing. 54.5 thousand militiamen were brought to disciplinary responsibility – in fact it was every fourth officer. More than 1.4 thousand were dismissed from law-enforcing organs.

(«Kievskie vedomosti», 6 March 2002)

* * *

Aleksandr Zarubitskiy, the head of the PR department of the Ministry of Interior of Ukraine:

«... Even if some our representatives permit themselves illegal treatment of citizens, they will immediately be strictly punished, up to dismissal. We have the corresponding services, which control the work of law-enforcing organs. I want you to understand: militia is now headed by moral people, who sharply react to everything that undermines the positive image of our agency»

(«Kievskie vedomosti», 21 June 2002)

2.2. SOME FACTS

Militia kills a Crimean Tatar

Volodymir Pritula, Simferopol

The prosecutor's office of the Crimea intends to conduct a thorough investigation of the circumstances under which a 26-year-old Crimean Tatar Niyazi Gafarov suspected of robbery was shot in the Kyivskiy district militia precinct of Simferopol on 12 July. The murder brought the Crimea to the brink of ethnic clashes.

«The case has more question than answers», deputy prosecutor of the autonomous republic Volodymir Rebrov told journalists. The prosecutor's office of the Crimea started inspection of the militiamen involved. According to Mr. Rebrov, the prosecutor's office has «many question to the militiamen about the legality of their actions, starting from the moment of the detention of the suspect».

We remind the reader that Niyazi Gafarov got a mortal wound in the Kyivskiy precinct, to where he was taken as a suspect in robbery of a Simferopol dweller. According to the information of the PR directorate of the Ministry of Interior in the Crimea, during the interrogation the suspect unexpectedly produced a knife a stabbed a militiaman and stabbed thrice the robbed man, who recognized him as the robber. Preventing the escape, the wounded militiaman took out his gun and mortally wounded Gafarov.

This tragic accident incited people in the region. Last Friday Gafarov was buried in his native village of Kamenka. The funeral almost turned to interethnic clashes. It became known that a forensic expert found on the body not only bullet wounds, but also many other injuries: haematomas, bruises and distinct prints of handcuffs. On the funeral day a group of Crimean Tatars conducted a protest action in front of the Kyivskiy precinct. They demanded a just investigation of the accident and punishment of the guilty. Tatars blame militia for brutal treatment of their nation.

Meanwhile the Crimean Prime Minister ordered the heads of local administrations and mayors to personally control the situation on their territories, as well as to conduct meetings with heads of law-enforcing organs, prosecutor's offices and the USS. Sergey Kunitsyn declared that he would not permit any clashes between different nations on the peninsular. He promised to personally control the investigation of this accident.

Emine Avamlieva, the head of the League of Tatar lawyers «Initsium», who is the advocate of Gafarov's family, told about a ramified system of tortures existing in Crimean militia, as well as about traditionally brutal attitude of law-enforcers to Crimean Tatars. According to her, the murder of Niyazi Gafarov is only the top of enormous iceberg of lawlessness, which exists in

law-enforcing organs. After the statements of the Prime Minister and the prosecutor about the additional investigation of the accident and the promise to punish the guilty the strain in the region diminished. Yet, the Medjlis anticipates the possibility of further protests.

«Prava Ludyny», July, 2001

* * *

Two militiamen were condemned in Zaporozhye, who illegally detained and beat an investigation officer of prosecutor's office, and then tortured him throughout the night. At the court session the victim did not demand the strict punishment. The accused were condemned to three years of incarceration conditionally and deprived of the right to serve in militia during three years. They paid 851 UAH for the treatment of their victim in a hospital.

(«Populiarnye vedomosti», No. 33, 16 August 2001)

* * *

Pavel Ivanovich Otchenashenko, the head of the Odessa oblast organization of the all-Ukrainian society of political prisoners and the repressed, an inhabitant of Belgorod-Dniestrovskiy, was attacked in Odessa when he returning from the all-Ukrainian forum of Ukrainians. Two attackers hit him on the head near a cafe, then they handcuffed him and dragged to the Prichornomorskiy district militia precinct.

The elderly man with the cerebral brain concussion and heart attack was thrown to a cell for 24 hours. When Mr. Otchenashenko asked to render him medical aid and to inform his relatives about the detention, he got a rude refusal. The militiamen demanded money from him, and to make him more agreeable, they put him to a cell together with two criminals. The night followed about which P. Otchenashenko told: «I passed through Soviet prisons and concentration camps. But even there I did not observe such treatment».

In September electronic mass media informed that the collegium of the Ministry of Interior of Ukraine dismissed the administration of the oblast and city militia directorates. Soon the administration of the USS in the Odessa oblast will also be replaced.

(«Ukraina i svit siogodni», No. 36, 8-14 September 2001)
Also see – «Ukraina moloda», No. 167, 14 September 2001

* * *

On 7 September the husband and son of Natalya Ponomarenko, the first secretary of the Orekhov district committee of the Socialist party of Ukraine, and minor Maksim Lebed were detained near their house by officers of the Orekhov district militia precinct. By the detainment and the consequent cus-

tody for more than three days the militiamen brutally violated Articles 46, 106 and 107 of the Criminal-Procedural Code of Ukraine.

In the night of the detainment the detainees were beaten by militia officers in the district precinct. The militiamen tortured the detainees trying to obtain their «confession» in the allegedly committed thefts. Father and son Ponomarenkos got grave body injuries, M. Lebed was taken to the local hospital with the cerebral brain concussion and other traumas.

(«Tovarishch», No. 37, September 2001)

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A comment to the above information:

In the small hours of the morning of 7 September husband Nikolay and son Vitaliy of Natalya Ponomarenko, the first secretary of the Orekhov district committee (the Zaporozhye oblast) of the Socialist party of Ukraine, and minor Maksim Lebed, a pupil of a vocational school, were detained near their house by officers of the district militia precinct, and after several days of torture got to a hospital.

M. Lebed wrote in his claim to the prosecutor of the Orekhov district that about 4 a.m. two militiamen got boxing gloves from a safe and began to beat him. They were beating him on kidneys, chest, midriff, face and back of the head until he fell down. While falling he hit his head against the wall and lost his senses.

From Vitaliy Ponomarenko's claim the prosecutor learned that the former was not only beaten with boxing gloves, but also with a stick and was tortured with a gas mask.

Nikolay Ponomarenko was beaten on midriff and groin.

Maksim Lebed and Vitaliy Ponomarenko were taken to local hospital with the cerebral brain concussions. M. Lebed wrote to the prosecutor: «Saving my health and life, I said: «I will sign all you want». And signed a paper without reading» V. Ponomarenko also signed all they demanded. Will these papers be presented to court by Yu. Podliyanov, the head of district precinct, and O. Vasiuk, the district prosecutor (we remind that the detainees confessed in some unclosed thefts).

Rimma Kazimirchuk, an investigating officer of the district precinct, answered the complaints against the militiamen: «Do you want to be beaten by me?» In the hospital the guard said to the doctor on duty: «What complaints may they hand, they will have to spend another night in the precinct». Yuri Podliyanov, the head of district precinct, does not show any signs of haste in carrying out the service investigation.

(«Tovarishch», No. 38, September 2001.)

* * *

Now the patrols reinforced by servicemen of special troops appeared at the posts of road militia. These patrols, intended for fighting with international terrorism and narcotic drug transportation, occupy themselves with quite other functions: they search cars and personal baggage of passengers, searching men and hugging women.

Recently an accident has happened in Kharkov, typical for other regions and posts. A road militiaman stopped a car, checked the driver's documents, after which he passed his work to a «Berkut» man («Berkut» is a special troop. – Translator's note). The seven-footer asked the driver to allow him to check the car and began to rummage in the trunk and passengers' luggage. The driver asked what was the reason of all this procedure. The answer was that the curious driver was handcuffed and learned about himself a lot of unprintable things. All this happened in the middle of a bright day at the roadside. Many spectators found that an initially innocent man became a criminal, a robber and possibly a terrorist. Then as usual phone calls followed, then the liberating of the victim and so on. The «Berkut» bosses, naturally, began to protect their officer, referring to the numerous articles of the law on militia, service instructions, the necessity of fighting the criminal world and international terrorism.

Here several questions arise. The first question is **constitutional**.

The Constitution of Ukraine (Article 30) does not permit the access to one's home or other property, as well as a search of this property, without a motivated court decision. The Constitution is the Basic Law of the country, so all other laws and instructions, which contradict the Constitution, are **illegal**.

The second question is **moral**. How the statement of the Ukrainian trooper that he fought in Chechnya can be treated? A mercenary, and on whose side? Are mercenaries permitted to serve in our law-enforcing organs? And how do you like the threat to the touchy driver made later in a private talk: «Wait until I take off my uniform, and then I will come and shoot you» Who is responsible for rank-and-file of our militia? Who hires criminals for work in the militia? Will this trooper and his commander be punished according to law?

The third question is **conceptual**. Does militia understand that it is a part of a service sphere with the only difference that its objective is safety and its services are paid by all of us, taxpayers? It seems no. They believe in their own impunity. That is why it is very difficult to protest against the actions of militia in court.

(«Kharkovskiy telegraf», No.27, 24-30 September 2001)

* * *

The Vatutinskiy district court of Kyiv is finishing now the consideration of the criminal case of two officers of the district militia precinct, who are ac-

cused of beating Vasiliy Shimanskiy, a judge of Kyiv Appeal court. The advocate of the accused expressed the wish to meet a journalist of the newspaper «Segodnia», which closely followed the development of this case. The journalist had to come to court wasting half a day for it. I suspect that is other advocates follow this example, then journalists writing about acute topics will have their days full.

(«Segodnia», No. 211, 21 September 2001)

* * *

Well, the verdict was announced. Judge Irina Degtiar found the militiamen guilty in committing the crime stipulated by Article 365 part 2 of the Criminal Code of Ukraine «Exceeding power or service authorities accompanied by violence» The both law-enforcers were condemned to three years of incarceration each, but with the testing period. The officers lost their ranks. After the testing period the ex-militiamen will have no right to work in law-enforcing organs during three years more. The condemned, it seems, plan to appeal against the verdict.

(«Segodnia», No. 214, 25 September 2001)

* * *

In the village of Konstantinovka of the Aleksandria district of the Kirovograd oblast two patrol militiamen started a conflict with two local guys. The conflict occurred at night at a discotheque. During the quarrel the militia sergeant drew his service gun and shoot at legs of the DJ and another guy; the both were wounded. The militiamen were detained.

(«Rabochaya gazeta», No. 159, 31 October 2001)

* * *

Kyiv dweller Sergey Polyshny got a refusal to open a criminal case against the militiamen, who, according to Polyshny's words, beat hi, on 8 April this year. Instead of criminal responsibility the law-enforcers were brought to disciplinary one. The conflict happened in a cafe, after which Sergey was taken to the Institute of neurosurgery with the diagnosis «the cerebral trauma and bruises on soft tissues of the face».

Later, when the prosecutor's office, court and militia commanders interfered into the affair, the sides characterized the events in quite different ways. The officer of the district prosecutor's office, who checked the materials of the service investigation, refused to start the criminal case. «The militiamen tried to detain Mr. Polyshny, but nobody beat him», reads the resolution. What happened was the professional incompetence of the militiamen during the detention of the person, at whom the claimant pointed as at a law-offender. The

claimant appeared to be a militiaman's wife. For this incompetence, according to the order of the head of the district militia directorate, the three patrol militiamen were brought to disciplinary responsibility. At the same time the General Prosecutor's office ruled that the decision about the refusal to start the criminal case must be cancelled, and the additional investigation must be conducted.

In his letter Sergey Vinokurov, the deputy of the General Prosecutor, pointed out that the body injuries inflicted on S. Polyshny were inflicted namely during the conflict with the militiamen.

So, the case will be started.

(«Segodnia», No. 257, 15 November 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, bot 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 to reason 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 Larisa'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?

*«Severodinetiski Visti», 2 November 2001
«Prava Ludyny», November, 2001*

* * *

On 16 October this year in the district center Talalaivka (the Chernigiv oblast) the chauffeur of Vasyi Marchenko, the main physician of the town hospital, broke the traffic rules. He turned to the sidewalk in front of the building of the district state administration in order not to avoid running over a pedestrian. Being afraid of militia chauffeur Roman Kutny ran away leaving the car. He turned for help to his boss. The latter ordered other driver, Anatoliy Taran, to take the car. The driver together with a medical attendant went downtown. Now, a month later after the described event, A. Taran is on the sick-list because of body injuries of the medium degree of gravity. The injuries were inflicted by Oleksandr Petroynis, the head of the district militia precinct, and his first deputy Vasiliy Kuris. The Chernigiv bureau of forensic expertise dealt with Anatoliy Taran twice. For the first time they found «the cerebral brain concussion, bruises of soft tissues of the face, left ear and soft tissues of the chest».

Taran and his wife more than once were «asked» to take their complaint away from the prosecutor's office. The eye-witness of the event, an officer in charge in the district precinct, said that he could not confirm anything to the prosecutor, since he was afraid of his chiefs. The main physician also did not want to complicate his life. The complaint of A. Taran was checked by Sergey

Gliadchishin, an investigator of the prosecutor's office. It was he, who took the decision not to open the criminal case.

After the order of the inspection of the Ministry of Interior directorate in the Chernigiv oblast Vasyl Kuris was dismissed from the post of the first deputy of the district precinct head, Oleksandr Petroynis got a strict reprimand.

(«Silski visti», No. 138, 20 November 2001)

* * *

More than once the spouses Sidorenkos turned to the Supreme Rada concerning the death of their son Yuri Sidorenko, who died in 1998 because of the brutal beating during the detention by the militiamen of the Khmelnytskyi district militia precinct. Yet, according to the data of the Parliamentary Committee in charge of human rights, national minorities and interethnic relations, the criminal case was opened by the prosecutor's office three years ago and the investigation still lasts. The militiamen involved continue to work on their posts, and some of them even got a raise in the service. Ombudsperson Nina Karpacheva states that there are almost no positive shifts. The only step forward was that, owing to the activities of public human rights protecting organizations, the problem became more transparent.

«Almost all criminal case opened against militiamen for misuse of power result in either a conditional verdict or pre-term release», told Ms. Karpacheva.

(«Golos Ukrainy», No. 231-232, 6 December 2001 ?.)

* * *

Almost a year has passed since that December day, when an Odessa dweller Igor Markov was found dead in the yard of the Odessa preliminary prison. The official version of his death was self-hanging.

I. Markov got into iron embrace of the law on 17 October 2000. A day before the officers of the directorate for fighting with organized crime (DFOC) conducted a search in his flat. During the search they found narcotic drugs in a pocket of his dressing gown. The search was conducted in Igor Markov's absence, but in his mother's presence. The militiamen advised the mother to tell her son to come to the DFOC office. Igor did so. In the DFOC he was detained and later arrested. Sergey Popov, an investigating officer of the prosecutor's office, issued the order to place Markov in Odessa preliminary prison No. 1.

On 21 December 2000, saying nothing to Markov's advocate, S. Popov transported Markov from this prison to the district detention block. On 22 December Igor Markov was found dead in the prison yard, which at the same is the yard of the Odessa oblast militia directorate.

According to Markov mother's words, while staying in the first preliminary prison Igor was demanded to give evidence against a Rudenko. «Popov

himself said to me that my son would be released as soon as he gave this evidence.

On 19 December 2000 the preliminary investigation was finished, and on the same day it was passed from the Odessa prosecutor's office to the Zhovtnevy district court (incoming No. 9362 of 19 December 2000). Thus, from this moment all connected with I. Markov's fate, could be decided only with a sanction of this court. Investigating officer in charge of especially important cases S. Popov sent the demand to the preliminary prison warden about the transporting of Markov to the district detention block for conducting some investigation actions. But what investigation actions could be applied to Markov that the first deputy of the city prosecutor signed the document confirming that the preliminary investigation was over?

Ludmila Markova, Igor's mother, in her letter addressed to the Odessa prosecutor wrote: «I am sure that my son could not commit a suicide. But even if one supposes this, the only explanation may be that he was driven to suicide by your officer S. Popov».

(«Komsomolskaya Pravda v Ukraine», No. 229, 12 December 2001)

* * *

O. Spravedlivy, the head of the Pecvherkiy district militia precinct, informed that the representatives of the union «Youth for human rights and against terror», who set up tents on the Nezalezhnost Square in Kyiv on 10 December, were detained according to Article 185 item 1 of the Administrative Code. The Article envisages the fine or administrative arrest for the term up to 15 days «for violating the procedure of carrying out public actions». The night for 11 to 12 December the Administrative Code offenders had to spend in the precinct, since they had no documents, so the law-enforcers could not identify them and send them to court. O. Spravedlivy assured the correspondent of the «Ukraina moloda» that no illegal methods would be applied to five young men and one girl (Tetiana Chornovil). The militia chief also remarked that the presence of an advocate in such affairs is not obligatory, thus contradicting the Constitution, which reads: «every citizens from the very moment of detention has the right to defend himself and to use advocate's services». Among others, who were not admitted to the district precinct were Orest Sokhara, the editor of the weekly «PIK», and MP Mykola Kulchinskiy (fraction of the People's Rukh of Ukraine).

Unexpectedly a motor ambulance came for one of the detainees Volodymyr Lesik. We could not manage to learn why the boy felt so unwell after about two hours under custody.

On 12 December the six detainees stood in the Pecherskiy district court. The verdict was a warning.

(«Ukraina moloda», No. 231, 13 December 2001)

On 1 October in the town of Pogrebishchi of the Vinnitsa oblast Dmytro Sakovskiy, the head of the district precinct, beat Volodymir Kepskiy, a successful small-time businessman.

The protocols of interrogations of the witnesses contain the evidence that Kepskiy's firm «FAZTEKH» regularly rendered «sponsor aid» to the precinct and Sakovskiy personally. At night of 1 October, having received no consent to by a car for him, Sakovskiy ordered to seize Kepskiy and transport him to the precinct. Volodymir went to militia in his own car. After this nobody saw him safe and sound.

«cerebral trauma, concussion and contusion of the cerebral brain, subarachnoidal hemorrhage» – these are the diagnoses, with which V. Kepskiy was taken to the oblast hospital. And here are quotations from the epicrisis: «4 October 2001. The patient's state is grave. Feels difficulties in contact» From the conclusions of specialists: «2 October 2001. The patient is overwhelmed, eyes are closed, does answer questions», «Displays lack of memories about the current events», 5 October 2001. The patient's state is still grave... Sleeps on pills», «9 October 2001. The left eye is narrowed, paresis of facial nerve on the right, left-side hemiparesis».

What happened at night from 1 to 2 October is not exactly known to the tortured. All he recollected was pain – entire and all-sided. Who beat him and by whose order is known only the initiators of beating and the executors. Something is known to the night officer on duty in the precinct. He, in spite of Kepskiy's groans, which were distinctly heard, refused to give the permission to examine the detainee by motor ambulance doctors, who were summoned for rendering aid to Sakovskiy. It was past midnight when Kepskiy was transported to the cardiology ward of the hospital. Yet, here happened somewhat comparing to which the brutality of the cops seems childish naughtiness. Kepskiy's state oscillated: he lost his senses and regained his senses from time to time. I. Burdeyny, the main physician of the Pogrebishchi hospital, ordered not to render him medical aid; this is confirmed by the protocols. During all this dreadful night the same militiamen stayed near the gravely injured instead of doctors.

Being offhandedly examined in the morning by the head of the ward, Kepskiy remained without the diagnosis and treatment during the entire next day. In spite of the protest of district doctors, Kepskiy's wife managed to organize her husband's transportation to the oblast hospital, where he at last was placed to the intense care ward.

The man is maimed physically and morally by the joint efforts of medical and militia bruisers. Now the case is started against Sakovskiy for «exceeding powers».

(«Svoboda», No. 48, 25-31 December 2001)

* * *

A shocking information was made public by Yuri Murashov, a representative of the human rights protecting organization «Helsinki-90». At the Parliamentary hearing on human rights he told about the facts of training militia special troops on convicts in penitentiaries. «Before the events of 9 March, approximately in the end of February, the special troops training was held in a concentration camp for the convicts suffering from TB», Murashov told.

According to «Helsinki-90» data, this peculiar professional training resulted in several deaths. The perished convicts were written off as died in a natural way. This tragedy occurred in the South of Ukraine, more details about the penitentiary Murashov did not tell because he was afraid to endanger the lives of his informers. There is a version, the human rights protector continued, that the secret order exists issued and approved by the Ministry of Interior top authorities about the training on the «alive objects». As the indirect confirmation the fact may be regarded that the actions of special troopers, about which human rights protecting organizations heard, are somewhat systematic. They are trained every spring. The seasonal character of the training, their regularity, coincidence of many details passed by our informers from various regions of Ukraine do not permit to regard these awful «seminar» of special troops as personal initiatives of some militia bosses. Besides, the presence of some scenario, which is at first practices on convicts, is illustrated by some circumstances. After the message of the person, who turned to «Helsinki-90», this year the training was, for the first time in Ukraine, held with service dogs. The information about using dogs against people also came from eyewitnesses of the mass detentions of the opposition activists on 9 March.

The activation of the bloody training of special troops may be linked with the raise of opposition movement, the methods of fighting with which were practiced in the concentration camps, Murashov believes.

(«Ukraina moloda», No. 241, 27 December 2001)

* * *

Vladimir Gritsun, a Kyiv student, told that in the small hours of the morning of 20 October 2001 he, together with his several friends, was returning home. One of the boys came to the sign «Road works» and lifted it, for which the three «hooligans» were detained by militia patrol and transported to the precinct of the former Starokyivskiy district. According to Vladimir's words, in a room on the third story two «law-enforcers» began to beat him on his head, ribcage and stomach. After this «prophylactic talk» the boy was conveyed to the lavatory to wash away the blood. All the detained were ordered to pay 51 UAH each for petty hooliganism». In the morning they were released without

giving any receipt about paying the fine. On 25 October Vladimir Gritsun turned to the prosecutor's office with the complaint about violating his rights and freedoms by militia. The complaint was registered under No. 819. A copy was sent to Colonel Maystrenko, a deputy head of the Ministry of Interior Directorate in Kyiv. According to Article 97 of the Criminal-Procedural Code of Ukraine, a prosecutor or an investigating officer must in three days either start the criminal case, or refuse the complainer, or forward the complaint to a corresponding agency and inform the claimant about this. The Code gives law-enforcers the term of 10 days, if it is needed to check the claim about crime before starting a criminal case. All the terms stipulated by law have already expired, but Vladimir has not got any information from prosecutor's office or militia.

So, for the umpteenth time law-enforcers were not punished for breaking laws.

(«Chas», No. 49, 21-27 December 2001)

* * *

The Lviv public union «For human rights» turned to Bogdan Rinazhevskiy, the oblast prosecutor, with the claim concerning the conditions of keeping under custody of a minor in one of district precincts. The minor is 17-year-old Yaroslav K., who was detained on suspicion of robbing a girl.

Olga, Yaroslav's mother:

«Nobody informed us about the detention. What is more, when my husband phoned to the precinct, a militiaman answered that they had no such a detainee. Only some time later our daughter was summoned to the precinct by phone (my husband and I were not at home) for making a contract with an advocate. The daughter was shocked: her brother was beaten so hard that he could not recognize her, could not understand where he was and recollect what was his name. The daughter summoned a motor ambulance. The doctor stated the general state of medium gravity and demanded the immediate hospitalization of Yaroslav, but militiamen forbade doing this. Besides, the advocate demonstrated Yaroslav's bruises to district prosecutor's deputy, who came to the precinct, but the deputy did not react and issued the arrest warrant. The injuries were so evident that the preliminary prison officers refused to take my son being afraid of responsibility».

Olga K. complained to the prosecutor's office about the beating of her son, she attached to the complaint the excerpt from the medical examination of her son done by the motor ambulance doctors. The forensic expertise, which was conducted only three weeks later, established injuries of medium gravity without short-term health deterioration. The inspection in charge of staff of the oblast militia directorate conducted the investigation and drew the traditional conclusion: «Officers of the district precinct did not apply any psychological

and physical violence to Yaroslav K.» So, since they did not, the prosecutor's office refused to start the criminal case against the officers, who interrogated the minor. Besides, they refused to give the mother a copy of the resolution on the refusal.

(«Fakty», No. 5, 10 January 2002)

* * *

Brothers Timoshchuks are well-known persons in Rivne: one of them is a deputy of the district prosecutor, another – a judge of the town court. They were robbed. The machine of justice started to turn quickly and decisively. Town militia worked over the case, although, according to law, it had to be investigated by the Dubenskiy district precinct (the object of robbery was the dacha in the village of Pantaliya of the Dubenskiy district). Without any sufficient grounds, proofs and checking alibis brothers Khariniuks were arrested: one – an inhabitant of Pantaliya and another – of the village of Sudobichi of the same district. Witnesses in the case were summoned to Rivne: Pantaliya inhabitants Vodopyan, Burzhuy and Shevchuk, and Sudobichi inhabitant Vasyl Grin. On the same day the judge of the Rivne town court took the decision to detain all the witnesses for 15 days of administrative arrest according to Article 173 (petty hooliganism). The witnesses were accused of resisting the militiamen. The truth is that this illegal decision was taken not at once. Two judges of the town court refused to do that, so the third one known as having no remorse was urgently pulled out of his bed. Then the arrested were brutally beaten and tortured in other ways. Having got inside the precinct they lost all their citizens' rights, including, perhaps, the right for life. Quite innocent people, on the eve of Cristmas, underwent awful torture.

On 12 January the last day of the arrest will finish. It seems that they would at last be released. But no, all the detained will automatically become the convicts of the preliminary prison, because their butchers already have their «frank confessions», which would be signed just on 12 January.

(«Ukrainske slovo», No. 2, 10-16 January 2002)

* * *

On 31 January several people in militia uniforms rushed into the office of V. Dorofeeva, a teacher of the Berislav (the Kherson oblast) medical school and a member of the Peasants' Party of Ukraine. In presence of pupils and colleagues the law-enforcers started the illegal search of teachers Dorofeeva and Gudyma. The militiamen rummaged in documents and personal belongings looking for a bribe. They could not find it. Then they sealed the entire third story and several classrooms on the fourth one. Then the turn came to the pupils and other teachers: their hands were examined by some strange appliance.

The brave militiamen from the Novokakhovskiy department for struggle with organized crime decided to continue the humiliation of the «suspected» in the precinct. Up to 5 a.m. of the next day Dorofeeva and Gudyma were kept in the detention block, where the humiliation continued with using threats and blackmail. At 5 a.m. Dorofeeva was transported from the cell to the intense care ward.

The teachers' collective of the Berislav medical school sent the complaints to the President of Ukraine, General Prosecutor's office and the Supreme Rada, where they demand to conduct an immediate unbiased investigation and to punish sternly the participants of the «militia raid».

(«Selianska zoria», No. 6, 9 February 2002)

* * *

What happened with a 17-year old pupil of the Mariupol medical school many regard as an annoying misunderstanding: just think, the law-enforcers applied not the proper article of the Criminal Code.

Yet, Anna's mother demands to punish those, who inflicted her and her daughter physical, psychical and moral traumas. Three years had passed before the court ruled to close the case of Anna Kurshakova because of the unproved accusations. And three years ago the poor girl spent three days in the detention block, from where she was transferred to the Primorskiy district precinct, where she experienced the terror. Investigating officers Prokhorov and Prudkov from the commission on minors ordered her to take off her clothes, and when she refused, several times hit her on kidneys with the edge of the palm, and then undressed her themselves. «They took off my jeans and panties and led me through several offices stark naked. For all my life I will remember the laughter of the people in the offices!»

Beside the interrogation by the investigator and prosecutor, Anna and her mother had to pass through 24 court sessions until everything was stated correctly.

After the change of the administration of the Mariupol town militia directorate practically all Anna's offenders were dismissed from the law-enforcing organs for bringing shame on the uniform.

(«Fakty», No. 31, 15 February 2002)

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A Kharkov dweller Roman Butenko estimated the damage inflicted to him by the illegal court decision as equal to 15 million UAH. He spent five years in a preliminary prison and two years in a prison according to the erroneous accusation of rape and murder. InfoNews informs that in 1997 a court found Butenko guilty in the mentioned crimes and condemned him to 15 years

of incarceration, but two years after handing the cassation the case was reconsidered and Butenko was completely acquitted.

Soon after the release Butenko handed the claim, in which we demanded to recompense him the damage. In particular he pointed out that more than once he was beaten in the preliminary prison, which resulted in many diseases. The court completed the consideration of the case and ruled to pay R. Butenko almost 74 thousand UAH as compensation. This decision did not satisfy the claimant. He declared that he would hand the cassation to the Supreme Court of Ukraine.

(«Fakty», No.20, 31 January 2002)
«Vechernie vesti», No. 16, 5 February 2002

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The Kharkov oblast court ruled that the state must pay 26-year-old Roman Butenko, who was erroneously condemned to 15 years of incarceration and spent almost 5 years in a preliminary prison, 74 thousand UAH for the inflicted moral damage.

On 26 September 1994 19-year-old Roman was detained by the militiamen of the Dzerzhynski district precinct of Kharkov. He was suspected of rape and murder of 16-year-old Tania Terekhina.

Roman Butenko told:

«They pushed me into a car and transported me to the district precinct. Some detectives hurried to the office, where I was taken, and at once began to beat me. They said to me: «We will beat you until you confess» They tore my hair and pressed with fingers on my eyeballs. They tried to kick me on stomach and in the crotch. They put a chair upon me and set on it. They squeezed my fingers in doors. They put a plastic bag on my head until I lost my senses. They splashed water on me to return me to senses and continued the torture. I understood that, if I do not sign what they wanted, I would die. By their question I guessed that one of the three girls-sportswomen, with whom I had got acquainted on 23 September, was murdered. I had told the three girls almost all about myself, so it was not difficult to find me. All the night detectives «discussed» with me the details of the crime. Then they made me confess in one more rape of a minor, which occurred in August in an elevator of a block of flats. Completing my «confessions» I, by the order of the detectives, mentioned that, when returning home after the crime, I met my acquaintance. Then I could not even fancy what will be the consequences of this lie...»

Meanwhile the criminal investigation came to a dead-end. Along with the notorious «voluntary confession» the investigation had no evidence against Roman Butenko. Viktoriya Meshkova, an investigating officer of the Kharkov city prosecutor's office, learned in the oblast prosecutor's office that they would have to release the suspected, if direct eye-witnesses of the murder

of T. Rekhina were not found. Then Meshkova's husband, Ivan Litvinov, was co-opted into the investigating group. He had to find «a guy named Aleksey», who was mentioned in Roman's confession. The search was conducted among all Butenko's acquaintances named Aleksey.

On 6 March 1995 Aleksey Polushkin was detained (The surname is changed. – Editor's note), a second-year student of a city higher school. Aleksey told: «In the prosecutor's office Litvinov showed me the photo of the murdered girl and began to ask how we killed her. He threatened that I would be shot together with Butenko. From time to time he hit me. He drove me to a desperate state. Near midnight Litvinov said that if I wrote the voluntary confession, I would be only a witness in the case. I could not stand the torture. After the consequent hit on the head I «reclected» that on the day, when we got acquainted with the girls in the Shevchenko park, my co-ed Lena Lapteva (The surname is changed. – Editor's note) was with us too. I said that the three of us walked until we met minor Rekhina».

Next day 18-year-old Lena Lapteva was brought to the prosecutor's office. The cops even did not need to beat the student to break her. They just left her for a night in the interrogation room handcuffed to the chair. Quite quickly Lapteva agreed «to aid the investigation voluntarily» For this she was released in the morning. But later the student, having packed the necessary things for staying in prison, came to the city prosecutor's office and said that she would prefer to stay in prison than calumniate quite innocent people. The rebel was put to the detention block Her father died of heart stroke. Two weeks after the detention the deal between the prosecutor's office and Lapteva was completed – she was released with the promise not to leave her place.

The investigator decided not only to have eyewitnesses of the crime – he wanted something more. By and by Polushkin and Lapteva began to turn from witnesses to accomplices

The prosecutor proposed the court not to heed «any mentions by the accused that the law-enforcers applied to them the forbidden methods of psychical and physical pressure», since «being interrogated, the law-enforcers refuted all testimony of the accused against them».

On 2 October 1997 the collegium of the Kharkov oblast court presided by Nikolay Kushnarenko, found all the three accused guilty according to Articles 93, item «æ» (murder) and 117 part 4 (rape). Roman Butenko was condemned to 15 years of incarceration, Aleksey Polushkin – to 11 years and Lena Lapteva – to 9 years if incarceration. Lena, who came to the trial from a lecture at her institute, was arrested in the courtroom

Roman Butenko told:

«The personnel of the Kharkov preliminary prison more than once beat me during five years. They summoned me to a special room, to which masked people rushed and started the execution. They beat me with fists, feet and

clubs. Once they shattered my elbow with an iron rod. After one execution I was dragged to the medical department, where I spent half a year with my arm maimed and several cerebral traumas. I myself bandaged by elbow with the plaster bandages passed by my mother».

On 10 June 1999 the collegium of the Kharkov oblast court presided by Sergey Kamyshev found all the three accused non-guilty. By this time Butenko spent behind the bars 4 years 8 months, Polushkin – 4 years 3 months and Lapteva – 10 months. This was the first case in the history of the Kharkov oblast court, when the accused were found non-guilty completely and finally. The Supreme Court of Ukraine approved this verdict.

The court acknowledged the work of crime investigating organs unsatisfactory, but nobody was punished. Major I. Litvinov retired on a pension with honors. Investigating officers V. Meshkova, A. Demchenko and V. Kobtsev still work in the city prosecutor's office and even got a service raise. The deputy of the city prosecutor, who headed the investigation during five years, retained his old position. The deputy of the oblast prosecutor, who approved the guilty verdict and considered the scores of complaints against the incorrect investigation procedure, also retained his position.

And the murderer of Tania Rekhina is still at large

(«Fakty», No.33, 19 February 2002)

* * *

On 14 April 1989 a premeditative murder for gain with especial cruelty was committed of a Kharkovite N. Kniازهva. The case concerning Kniازهva's murder was passed to investigator V. Litvinova. Some time ago she had falsified the accusation against Roman Butenko, Aleksey Polushkin and Lena Lapteva, who were blamed for murder. That was her guilt that Butenko and Polushkin spent in prison more than 4 years and Lapteva – 10 months, until the court ruled that they were not guilty. Changing her service chairs (she passed from the city prosecutor's office to the oblast one, and from the oblast one – to the prosecutor's office of the Dzerzhinski district), Litvinova, it seems, continues to falsify criminal cases.

G. Kitaynik, O. Vysochinenko, I. Oleynik and S. Rovenskiy were accused of the murder of Kniازهva in 12 years after the murder.

On 25 March 2002 the Appeal court of the Kharkov oblast started to consider the case. G. Kitaynik stated that the case against him was falsified. He also said that officers of the department for fighting the organized crime I. Bogaditsa, D. Lazarev and P.Parkhun came to him to the preliminary prison and demanded from him to give evidence against V. Muzyka, the former head of the oblast militia, and N. Cheremukhin, the head of the Kharkov crime investigation department, who allegedly were involved in organizing the murder. G. Kitaynik, who was arrested before on suspicion of swindle and extortion,

stays in the preliminary prison without any verdict for the third year on end. The court investigation continues and promises to be loud. V. Muzyka, N. Cheremukhin, V. Kartavykh and many other law-enforcers well-known in the city are the witnesses in this case.

(«Vremia», No. 37, 2 April 2002)

* * *

Continuation of the topic:

On 25 March this year the Appeal court of the Kharkov oblast presided by N. Zadorozhny started to consider the criminal case concerning the accusation of G. Kitaynik, O. Vysochinenko, I. Oleynik and S. Rovenskiy of the murder of N. Kniazeva committed on 14 April 1989.

The investigation (the officer in charge was V. Litvinova) found that G. Kitaynik, an invalid of the 2nd group, was the organizer of the crime. A significant detail: the murder (in the from passed to the court) was disclosed only after 12 years. G. Kitaynik asserted that he learned that he «had committed the murder» only in August 2000, being detained by militia because of quite another reason. Some time before S. Rovenskiy, detained on the suspicion of the crime, had written his voluntary confession. It was he, who depicted the crime.

This criminal case attracts the attention not only by the especial cruelty of the murder, but, mainly, that the investigation tired to accuse of it several people in succession: at first Nikolay Cheremukhin, the head of the Kharkov crime investigation department, and then Vitaliy Muzyka, the former head of the oblast militia.

The logic of V. Litvinova, the prosecutor's office investigator, and the persons, who controlled the investigation of this criminal case, seems queer. According to this logic, the evidence of the accused Rovenskiy and Oleynik concerning V. Muzyka and A. Kniazev is ignored, and in Kitaynik's case the same evidence serves as a basis, unique and sufficient, for accusing him of the especially grave crime and keeping him under custody longer than two years.

After the petition of Kitaynik's advocate the court demanded the original verdict of the Yalta town court. The verdict reads that on 15 April 1989, the next day after N. Kniazeva's murder, G. Kitaynik and A. Dinkevich were attacked. 16-17 April they spent in militia precinct. So, Kitaynik could not be present in the cafe «Fregat», where he allegedly paid for the fulfilled work. The alibi was presented not only by Kitaynik and his advocate, two other accused, Vysochinenko and Oleynik did the same. The former said that in 1989 he had lived in Moscow with his wife and gave the address, where he had lived. Oleynik affirmed that during that time he had served in the army in Kazakhstan (from 8 December 1988 to 31 October 1990) and could not be in Kharkov on the day of the murder. To prove his point Oleynik referred to the documents from the Central archive of the Ministry of Defense of Uzbekistan

and from the Moskovskiy district recruiting commission of Kharkov, as well as to the testimony of his co-servicemen. It seems that such testimony is capable to «explode» all the case. But both the court and the prosecutor ignored the alibi, because nowadays false alibis are abandoned.

The monotonous movement of the process was interrupted by a quite unexpected event. The court changed the preventive measure for Rovenskiy to the promise not to leave the place, and he was released in the courtroom.

So, the three accused declared about their alibis. Earlier Vysochinenko and Oleynik confessed the crime (Kitaynik never did it), since during the investigation they underwent psychical and physical pressure, about which they more than once complained.

Today the accusation against the four men is doubtfully based on Rovenskiy. Rovenskiy, three times tried, in particular, for robbery and premeditated murder of a taxi driver for gain, is highly trusted by the court in spite of the fact that this time he is also accused a grave crime. Yet, the court, having learned that he is sick with TB, demonstrated a humanistic attitude. If it were a usual reason for changing the preventive measure (see the case of V. Siniatin (Sevastopol). – the KhG comment)! At the same time, three well-motivated petitions (referring to medical documents) of Kitaynik's advocate about changing the preventive measure remained unanswered properly (one was rejected without any motivation).

So, Rovenskiy was released. It is difficult not to believe Kitaynik's statement that Rovenskiy was released for his false accusations against the other suspects.

Mark, Kitaynik's father, declares: there will be more than one sensation, the protocol of the examination of the place of crime was falsified. The exhibits vanished under enigmatic circumstances, and Kniazeva's mother name other murderer with a great state of confidence.

(«Vremia», Kharkov, No. 69, 20 June 2002)

* * *

Last January in Poltava a saleswoman of the food shop «Orbita» was murdered. In order to report on the successful disclosure of the loud crime, law-enforcers decided to frame a former guard of this shop, Aleksandr Lysenko, with this murder. Several militiamen in civil clothes provoked a fight with the participation of Aleksandr, then the guy was accused of starting this fight. Valeriy Burbak, a judge of the Octiabrski district court of Poltava, condemned him to 7 days of administrative arrest. This term appeared to be sufficient to intimidate Lysenko by threats and torture and to make him sign the confession. Two months after Aleksandr left the preliminary prison, doctors found micro-infarct, cerebral brain trauma, numerous wounds on the head,

trauma of the left ear-drum, contusion of a kidney, etc., although before he was quite healthy.

«My son was maimed physically and morally by the butchers in militia uniform. It appeared that this is called services, for which I was made to pay 31.5 UAH according to the price list approved by the Poltava town executive committee», told Aleksandr's father. Two days after Aleksandr had to «confess» the murder, he stated to the prosecutor that he gave false evidence under duress. But Anatoliy Savchenko, the then prosecutor of the Octiabrski district of Poltava, in spite of the obviously illegal methods of extracting evidence, opened the criminal case against Lysenko.

The appeal court of the Poltava oblast found the resolution of judge Burbak about the administrative arrest of Lysenko illegal. Now Aleksandr Lysenko handed the claim to recompense him the moral damage inflicted by the actions of the judge, he assessed the damage in the sum of 100 thousand UAH.

During the days while the trial lasted concerning the accusation of Aleksandr Lysenko of the grave crime the criminal case against him actually disintegrated. The first instance court changed the preventive measure and arrested Aleksandr in the courtroom, but soon this resolution was also cancelled by the appeal court of the Poltava oblast. The consideration of the criminal case is suspended for some time.

(«Vechernie vesti», No. 33, 6 March 2002)

* * *

On 6 March officers of road militia without any explanation detained Valentin Tkalic, a candidate to people's deputies from the bloc «Our Ukraine», the head of the regional department of the bloc and a candidate to the town council. He was detained during his pre-election meeting with the youth of Lugansk. After the detention the militiamen confiscated his documents and car. Tkalic was coercively brought to the Artemivskiy district precinct, where he was kept overnight, to the noon of the next day. Vladimir Sventitskiy, the deputy head of the Lugansk oblast organization of the Ukrainian People's Rukh, said that «it seems that the actions of the road militia were ordered».

(«Rukh», No. 11, March 2002)

* * *

Two months ago the Mirgorod town court considered an administrative case. The case was based on Article 185, which served to accuse a Mirgorod inhabitant V. Kvaskov of malicious resistance to militiamen in the course of executing their duties.

On 5 January this year militiamen detained and brutally beat in the club of the Mirgorod resort minor Aleksandr Kvaskov, who was later brought to the precinct. When Aleksandr's father came for his son, he was also beaten and put to a cell for three days. After this an administrative protocol appeared, which read that, being in the precinct, citizen V. Kvaskov bumped the face of the militiaman on duty M. Sharkov. The court tried to establish the truth for a long time. More than 10 eyewitnesses were questioned about the case, among them seven militiamen. At last on 4 March V. Kutsyn, the head of the town court, issued the resolution, by which she closed V. Kutsyn's case and directed the case materials to the prosecutor's office for checking. The resolution is final and may not be appealed. But it is too early to put a period in the «Kvaskov' case». After A. Ogryzkov, a deputy of the Mirgorod inter-district prosecutor, refused to open the criminal case concerning the illegal actions of militia officers, V. Kvaskov appealed this decision in court and, more probably, this case again will be considered by judge V. Kutsyn. It remains to add that this case is controlled by the Kharkov Group for human rights protection.

(«Myrgorodska pravda», No. 22, March 2002)

* * *

A wave of militia raid rolled in Ukraine from 14 to 16 April. These days, like on 9 March 2001, militia detained all «suspicious» persons in streets and railway stations of Kyiv. The main characteristics of the «suspiciousness» were the knowledge of the national language, wearing the national clothes or the national hair-dress style. The offices of patriotic organizations were the most suspicious places. All in all during these days the coolers of the Pecherskiy district precinct were visited by several hundreds of patriotically concerned Kyivans, mainly members of the Plast, Young Rukh, Union of Ukrainian republican youth (UURY), UNSO, «Patriot of Ukraine», «Trident».

16-year-old Taras Shvydenko, a member of the Young Rukh :

«On 15 April at 10:15 p.m. I and my friends were detained in the underground passage at the Nezalezhnost Square and brought to the Pecherskiy district militia precinct. There the militiamen asked me, where I was on Saturday, 13 April (this very day the Brodsky's synagogue was attacked). The investigating officer was interested by my «Trident» badge. I answered that I am a Ukrainian. In response the officer said that such people as me must be hanged. Later I was brought to a room, where four plain-clothed men were present. They said that they would teach me to speak Russian. They again asked me, who was I, and I answered – a nationalist. Then the militiamen began to kick me on the back of my head. They accompanied the beating with the cries: «We shall show you Ukraine, you, a Christian brute!» and «Kill the Ukrainian!». They knocked me down and kicked me for a long time. When I lost my senses, they splashed water in my face, suspended by the wrists and continued to beat

promising to hang me. Then one of them hit me with a bottle. About 3 a.m. they let me go».

Another detained, a 15-year-old boy, told that in the precinct he was beaten by his head against the wall. An UURY member Eduard Yurchenko told that he was detained on 14 April together with other boys at the stadium during the soccer match. They all were brought to the Pecherskiy precinct and tortured. All the night long cries and shrieks sounded from the second story of the precinct.

On 16 April Vadim Levkivski, a member of the Young Rukh from the Zhytomir oblast and a *plastun* (a member of a paramilitary youth organization. – Translator's note), and Artem Troskot, an UURY member, were detained by militia without any explanations. Militiamen did not beat them, but they mocked at their national views and feelings.

(«Ukrainske slovo», No. 16, 18-24 April 2002)

* * *

Some time after the vandalizing the Central Kyiv synagogue, rumors spread over the city about mass detentions of youths. «Ukrainske slovo» was the first mass medium that started this topic. Even if to regard the information with certain scepticism and to agree that there were some exaggerations, one thing is obvious: a consequent legal accident occurred in Kyiv. The incident is rather serious, since it concerns humiliation of human dignity. Aleksandr Spravedlivy, the head of the Pecherskiy district precinct, dodged from a direct answer, and Yuaroslav Mazurkevich, the deputy head of the PR department of the Ministry of Interior, refuted the information about the mass detentions of the youth.

By the way, Mr. Spravedlivy was involved in the last-year arrest of a group of young people, who on 10 December celebrated the International day of human rights protection by the protect action and erecting a small tent camp on the Nezalezhnist Square. Then the detained «for administrative offence» were also brought to the Pecherskiy precinct, whose doors closed before the detainees' advocates, parents, MP M. Kulchitskiy, the press and a score of other people, who tried in vain to learn something about the lot of the «prisoners».

(«Ukraina moloda», No. 81, 30 April 2002)

* * *

Near a Kherson settlement of textile workers road militia stopped the car of Anatoliy Kaychenko and his son, an invalid from childhood with a maimed leg, both dwellers of the settlement of Zelenovka (the Kherson oblast). The militiamen ordered the driver and passenger to leave the car and began to search the car unceremoniously.

Anatoliy Kaychenko told:

«I expressed my protest. Then somebody hit me on my back with a rubber club. I fell on the sergeant. The latter joyfully exclaimed: «Ah, you are resisting!», and they began to beat me. At this moment a car with four more militiamen came to us. They handcuffed me, threw me down into a puddle and beat me again. After it they took us to the district precinct, and beat me again near the building. I asked not to touch my son. Then the same sergeant came up to my son and demonstratively hit him on the leg».

That night the father and son spent in a cell of the Dneprovskiy district precinct of Kherson. Nobody tortured them. Aleksandr Kaychenko, Anatoliy's son, told that in the cell his brutally beaten father fainted now and then, he was sick. Yet, in the morning they were brought not to a hospital, but convoyed to a court. The protocol about the resistance was compiled, so they expected either a fine or an administrative arrest.

Pavel Vadzinskiy, a judge of the local court of the Dneprovskiy district of Kherson, told:

«I looked at the senior man and felt horror. He was beaten black and blue and was swollen as if Chechens tortured him. Obviously, I did not rule any decision, but directed the father and son to the prosecutor's office.

There Anatoliy Kaychenko was sent to the forensic expertise. Then he spent two weeks in a hospital, where he healed the cerebral brain concussion, bruises, pains in legs and back.

According to the words of Viktor Kostennikov, the head of the oblast road militia, his colleagues looked for the stolen «Niva» Kaychenkos' car was «Zhyguli», but it was stopped.

The car detained did not contain either arms, or narcotic drugs, or anything stolen. The documents were in order, the driver (son) was sober. Then what was their guilt? The investigating officer of the Dneprovskiy district prosecutor's office refused to open the criminal case on the beating of Anatoliy Kaychenko. District prosecutor Grigoriy Marenchuk analyzed the materials and cancelled this decision. He ordered to conduct an additional check».

(«Komsomolskaya Pravda v Ukraine», No. 72, 20 April 2002)

* * *

This story began in November 2000. I. Galasun, a senior prosecutor of the Dnepropetrovsk oblast prosecutor's office, described the events in the following way:

«On 2 November 2000 between 10 and 11 a.m. A. Fishenko (a detective of especially important affairs of the Krivoy Rog department for fighting organized crime (DFOC). – Author's note) saw E. Budenny driving his own car in a street near the Dzerzhinski repairing plant. The militiaman showed his ID to Budenny and proposed him to accompany him to DFOC office, which was

fulfilled by Budenny. In the course of the talk Budenny confessed that 1998 he sold a Kalashnikov to A. Firsov.

On 4 November S. Karpenko, an investigating officer of the Dolgintsevskiy district prosecutor's office, opened a criminal case against E. Budenny.

On 6 November E. Budenny was accused of breaking Article 222 part 1 of the Criminal Code, on the same he was taken under custody».

The above quotations are from the resolution of the oblast prosecutor's office about the refusal to open a criminal case against militia officers, as it was demanded by E. Budenny.

According to the prosecutor's version, Budenny unexpectedly informed the DFOC officer about the sale of the Kalashnikov. The talk took place on 2 November and on 4 November the criminal case was opened. All this time Budenny did not leave the DFOC building. Militiamen conducted a search in Firsov's place and found a Kalashnikov. A criminal case was hastily opened, in a month it was passed to a court, and in another fortnight Firsov was condemned conditionally. During the investigation and the trial he was under the obligation not to leave the town. Even if to accept fully the version of the investigation, it follows that Budenny made a voluntary frank confession. The lot of Firsov was solved quickly and simply, the lot of the main culprit, E. Budenny, shaped quite otherwise. Unlike businessman Firsov, Budenny was kept in the preliminary prison. In a month after the detention he was accused also of a robbery.

An excerpt from the complaint of Evgeniy Budenny to Yu. Karmazin, the head of the Supreme Rada Committee for fighting corruption and organized crime:

«I was detained on 2 November about 1 p.m. I stopped before a red light. At this moment two cars blocked my way, several strangers armed with handguns came from the cars, handcuffed me and put me in my car. S. Kozhukhov, a DFOC officer, was driving, another DFOC man took his place beside me on the back seat. A. Fishchenko drove their car. During the way to the DFOC office I was roughly treated.

When we came to the office, both I and my car were thoroughly searched. From my car they confiscated a tape recorder, my driver's license, money in the sum of 5 thousand UAH, cell phone, rifle in the case, a permission for using the rifle and my hunter's ID. After this DFOC officers A. Fishchenko and S. Kozhukhov began to beat me brutally in the office, then they took me to the DFOC sporting hall, where they tortured me with gas mask, handcuffs and other tools. In the sporting hall Fishchenko and Kozhukhov beat me and kicked me. They handcuffed my hands and feet, they put a gas mask on my head and a sporting weight on my neck. Several times I lost my senses from the lack of air. Fishchenko kicked me in my face. I felt terrific pain and all the left side of my face got swollen. My blood splashed over the gas mask glasses

and on my jacket. Later I washed the jacket, as I could, and still later the jacket was stolen. When I got medically inspected in preliminary prison No. 4 they found the break of my lower jaw. My kidneys were also injured, and I urinated with blood. I spent the night of 2 November in the sporting hall of the DFOC handcuffed to a training appliance. The DFOC men accused me of a robbery. I understood that they demanded a large bribe in order not to accuse me of a robbery I never committed. On 4 November investigator S. Karpenko came and signed the protocol of my detention. The investigator saw my helpless state and the trauma of the face, but he did not take me to the prosecutor and did everything himself. He commented: I am friendly with district prosecutor Shelest, so I must not lead you to get the arrest warrant» All this time my relatives did not know where I was. I ask you to conduct a service investigation of the described facts and to bring to criminal responsibility the DFOC officers A. Fishchenko and S. Kozhukhov».

The 27-year-old businessman spent 8 months in the preliminary prison. He was accused of arm trade and participation in a robbery. During the investigation he from time to time signed confessions and refused from them. There were no proofs confirming Budenny's guilt beside these «frank confessions» Budenny's father managed to get the permission for a forensic expertise and to get medical documents proving that his son was safe and sound before getting to the DFOC.

The court session took place on 11 July 2001. The accusation of the robbery was taken off by judges: «The court cannot regard the testimony truthful, since it is not confirmed by other proofs, and the broken jaw of the accused together with the documents that he had not a broken jaw before the detention give some grounds to think that this confession was obtained in illegal way».

As to the accusation of sale of a Kalashnikov, it remained in effect. The verdict was 2 years conditionally. But what about the court's doubts on the legality of the investigation methods? If the confessions were «beaten out», then why nobody was punished? Evgeniy Budenny practically became an invalid – in the preliminary prison he did not get any medical aid and the bones joined together incorrectly. Besides, not all things confiscated after the detention were returned to him, for example, the driver's license.

The oblast prosecutor's office continues to lie: «as to beating E. Budenny by Fishchenko, the latter categorically refuses the fact».

From a complaint of Evgeniy Budenny's father:

«The oblast prosecutor's office acknowledged the fact of my son's detention on 2 November 2000. Then the question appears: why all the documents mentioned in Article 115 of the Criminal-Procedural Code were registered on 4 November? Where was my son during these to days? Why the things taken from his car were found only about a year later? Investigating officer S. Karpenko hurried with Firsov's case and it is obvious that not unselfishly: Firsov paid 10 thousand USD for that. Firsov told me this himself. He advised me to

pay some money to the investigator to make him solve the son's case positively. I answered that I would not pay and that I had no such money. I paid to investigator Karpenko 600 UAH for meeting with my son, which he permitted in his office».

Anatoliy and Evgeniy Budennys are sure that they will finally find the truth. They do not doubt one more thing: the case was fabricated with the only purpose – first to intimidate the «criminal» and then to «pump» from him as much money as possible.

Anatoliy Budenny is sure:

«The entire Ukrainian militia uses today such a scheme. Advocates are also taking part in this scheme. Pshichenko, our advocate, deliberately did not hurry, he advised the son to agree with the accusations and to state that his jaw had been broken before getting to the DFOC. Only later we learned that our advocate was a close acquaintance of the investigator».

In the history of the independent Ukraine the chain including detectives, investigators, judges and prosecutors has never been punished. The chain «appoints» a criminal, then they procure a «confession», and then direct the «criminal» for «reforming». The impunity results in insolence, from which many people suffer in Ukraine. Now only rare victims decide to resist openly.

(«Krivoy Rog vecherniy», No. 18, 30 April 2002)

* * *

Here we told only a tiny part of the troubles that avalanched on us during several recent months. We have omitted about 90% of what really happened. Victims and their relatives were the weakest link. They took away the documents, refused their testimony, further meetings and all the attempts to learn the truth.

The Chernigiv militia became dangerous not only to simple mortals, but also for those, who, this way or another, had taken part in shaping the horrible traditions of militia. As a prosecutor's office top official told about some case, «it is dangerous to deal with militia nowadays. You so not fancy what kind of people work there now. May I give your phone number to a victim? He is now struggling for justice, but without any success».

In Chernigiv downtown a militia patrol consisting of three men «applied the combat techniques» to an ichthyologist of the local fishing inspection, an elderly man suffering from an eye disease. Only in a hospital, having recovered from shock, the victim understood that he also got deaf in one ear. Before the meeting with the militia patrol headed by sergeant Ploskiy the victim, Aleksandr Tychina, was quite healthy. This accident happened soon after the New Year holidays. As a result A. Tychina got to the 4th town hospital, where he spent 24 days. «Militia sergeant O. Ploskiy kicked my shin this knocking me down. The militiamen went amok, handcuffed my hands behind my back

and began to kick on my head and ribcage. I could not defend myself, so I began to call loudly for help. Sergeant Ploskiy summoned a car by radio. The car took me to a narcotic dispensary and then to a cooler, where I asked to take off the handcuffs. O. Ploskiy answered that he had the right to keep me in handcuffs for three hours». The above passage is an excerpt from the complaint of A. Tychina against the resolution on the refusal to open a criminal case of 31 January 2002. The mentioned resolution was cancelled later. The investigation lasts, but the procedure somewhat puzzled us. This is not the only case we know, when the investigation of an affair of maltreatment on the law-enforcers is based on their words or the words of the witnesses attracted by them. Any testimony against them is ignored.

It is not surprising that to avoid punishment law-enforcers use quite implausible and primitive lies, in the contrary, it is surprising that these lies are seriously regarded

It is quite possible to produce a horror film from the documents we have accumulated.

A former officer of a crime investigation department, retired lieutenant colonel, was detained by sergeants of the convoy militia squad. The contact with former colleagues ended for the pensioner in the cerebral brain concussion, dumb fingers of right hand (handcuffs!) and hospitalization. This episode is a horrible as others. According to the version of the victim, militia pensioner Mikhail Vovk, he was beaten in the Desnianskiy district precinct in the presence of his former pupil, who began the service in militia under his guidance. The state of M. Vovk, when he was released, was as follows: closed cerebral brain trauma, cerebral brain concussion, bruises and wounds on the face, post-traumatic exacerbation of osteochondritis, three dumb fingers of right hand.

From the complaint of the victim to the prosecutor's office:

«Sergeant Tarasenko grabbed me by my clothes and hit me in the face Tarasenko knocked me down. He kicked me in the lying position By the order of major Barbash, the commander of the squad, Tarasenko, Artemenko and other servicemen of the special troop «Berkut» attacked me. They twist my arms, threw me on the concrete floor and began me with fists mainly on the head. I was pressed by the knees and my arms behind my back were handcuffed I fainted and regained my senses on a militia car seat. I was brought to the medical examination».

A man, who never did any harm to anyone, stayed almost a month in a Ministry of Interior hospital. The investigation of the accident was conducted formally and one-sidedly. The three detained, who were present in the precinct, saw the beating. Vovk insists on finding them. Yuri Sheremet, a prosecutor's officer, believes that it is impossible to find them, since the fact of their detention is not fixed in any militia documents.

From conclusion of the experts of the Chernigiv oblast bureau of forensic expertise No. 349:

«Citizen P., born in 1951, has injuries in the form of strangle of the neck, two strangulation furrows; cerebral brain trauma, cerebral brain concussion, contusion of the larynx; hemorrhages in the larynx, gullet and vocal chords; contusion of the left kidney, numerous bruises on the face, body and head; hemorrhages in the conjunctivas of the both eyes. The mentioned body injuries relate to grave ones because they are dangerous to life».

Citizen P. was convicted by militiamen Derevianko and Zhelezniak, who as the court established, executed the verdict. Now P. must get the compensation equal to 1200 UAH.

And here is the complaint of N., a fitter of the engine depot. He asserts that he was beaten and robbed by a militia patrol in a militia car and they thrown out under rain. The complaint is appended with a collection of formal answers, the general sense of which is that the criminal case was refused to be opened. All the traumas (except one) because of which N. spent 28 days in a hospital, he could inflict himself. That is all, the investigation is finished.

Upon the whole, the picture is crystal clear: all the time militiamen humiliate, beat and maim innocent people. They do it in the frame of their duties, as well as executing «orders» of commercial structures and their own bosses. Investigations of such incidents are not conducted at all or are conducted very negligently. The total passivity in the fight with the uniformed criminals testifies only about one thing: such law-enforcing organs are quite convenient both for the Ministry of Interior and the power. Maybe, they are even profitable. Such personnel, dirty and ready for any crime, is what the top needs

(«Zerkalo nedeli», No. 18, 18-24 May 2002)

* * *

The article «Dragon's teeth» («Nedeli», No. 18, 2002) had an explosive effect in the Chernigiv oblast. We remind that we described the cases of militia cruelty and arbitrary actions. All the officers, involved in the described events, started to save their reputation, career and shoulder plates. The measures that now taken by the law-enforcing commandment for their justification are traditional. The mass processing of the victims to establish needed relations is carried out, by alternative using stick and carrot. All the facts described in the article are carefully sifted in a hope to find some ambiguities, which would permit to interpret the events in favor of the militia-prosecutor gang. Those law-enforcers, which cannot be justified in any way, are dismissed quietly and civilly. The officers, who are doing this, must understand: to hush-hush the resonance affair described by mass media, taking into account that the journalist are safe and sound and continue to work in the region, that is like extinguishing a fire with kerosene.

These days we accidentally lay hands on a very interesting document. Here it is verbatim.

«Directorate of the Ministry of Interior of Ukraine in the Chernigiv oblast. Excerpt from an order.

23 May 2002. The town of Chernigiv, No. 74 o/c. Concerning the personnel.

According to the Regulation on the service of privates and officers of law-enforcing organs, to dismiss from the Ministry of Interior organs to the reserve of the Armed Forces of Ukraine according to item «ж» (after own wish):

– militia sergeant Ploskiy Oleksandr Oleksandrovich, a serviceman of a separate battalion of patrol service of the Ministry of Interior since 22 May 2002.

The service time for the dismissal pay is 08 years 02 months and 17 days;

– militia sergeant Dovzhenko Oleksandr Mykolayovych, a serviceman of a separate battalion of patrol service of the Ministry of Interior since 22 May 2002.

The service time for the dismissal pay is 02 years 06 months and 02 days;

– junior sergeant Sotnikov Oleksandr Evhenovych, a serviceman of a separate battalion of patrol service of the Ministry of Interior since 22 May 2002.

The service time for the dismissal pay is 01 years 00 months and 19 days.

Head of the directorate of the Ministry of Interior

General-major of militia M. F. Manin».

The three militiamen, who beat an innocent passerby, were dismissed by their own wish, that is with a spotless reputation and with the right to be restored in the service. By our information the victim got the compensation for the damage inflicted. The law-enforcing agency paid money for blood; in this way they obliquely the crime committed. The problem is that, as far as we know, such a processing is applied to almost all victims and witnesses mentioned in the publications. According to our sources, the check of the described facts is done not finding the truth, but for whitewashing the reputation of the law-enforcers by all means. The means are somewhat monotonous: first, the collection of the receipts of the type «victims have no claims» (sometimes for the promise to recompense the damage), second, the unambiguous threats to start a war against the victim or even office, where he works. The ultimatum is worded approximately so: «Certainly, you have the right to prosecute us, but then we shall treat your agency in a principal manner».

We have irrefutable proofs that the law-enforcers, whose names were mentioned in our article (for example, prosecutor's officer Yu. Sheremet), actively participate in the «elimination» of the accusations. We also know that the main interest of the crime investigators is directed to the circumstances, in which we got the compromising information.

We goal of our publication was not the peaceful dismissal of several militiamen. We wrote not about single cases, we wrote about the mutation of the Chernigiv law-enforcing organs as a structure. About the unmotivated gang-

sterish cruelty of those, who work there. About the cover-up penetrating the agency from top to bottom.

If a militia sergeant beats an innocent man, it is a concrete case. But it is a symptom, when it becomes known that at the time of the beating he did serve his duties, but was guarding a commercial firm on the basis of very dubious contract signed by militia bosses, who later protect their subordinate. Hush-hushing the criminal maltreatment of victims, as well as the peaceful dismissal of the caught uniformed criminals (and how many are still not-caught) – this is not curing the disease, this is a relapse.

Again Vladimir Semenyi, the head of a department of the oblast TB dispensary, turned to «ZN» for help. He was brutally beaten by a stranger. And when, having left the hospital, he tried to find justice, he was beaten again. In the course of the second beating he was also robbed. The attackers warned him not to complain, or else Militia fined him for the stolen documents, but did not find the attackers. Recently doctor Semenyi won the appeal process: the court cancelled Resolution No. 75/704 M on closing the criminal case about inflicting him body injuries. The details he gave to us border with fabulous.

The attacker is called by official documents as «a stranger» only for civility. He is well known both to militiamen and the beaten doctor. On 29 April this year the Chernigiv appeal court again returned the well-hidden case for additional investigation.

(«Zerkalo Nedeli», No.21, 8-14 June 2002)

* * *

From a letter of a Kremenchug dweller Natalya German:

«On 1 2002 about 6 a.m. militiamen in camouflage uniforms and Balaklava helmets armed with pistols rushed into my flat without any warrant and without my permission. My son I. German and his acquaintances M. and O. also were present in the flat. The militiamen knocked my some down after he voluntarily opened the door and shot at him. They missed quite by chance. Without introducing themselves and asking no questions the intruders knocked the three boys down, twisted their arms and handcuffed them. After this one of the law-enforcers shot at M., God knows why, and wounded his gravely. M. still stays in a hospital in a grave state. The boys could not resist militia, since they handcuffed lay on the floor. Having seen that their zeal let to unexpected problems the law-enforcers summoned a motor ambulance that took M. to a hospital and a car to take O. to the department for fighting organized crime (DFOC). As to my son, they forced him to stand on the landing with his face to a wall; is lasted rather long. During this time militiamen repeatedly came in and went out of the flat. We do not know what they did there In the drawer, which I opened by the order of militia, I saw a saw-off of hunting rifle. I was

flabbergasted, because I used to open this drawer every day. I am sure that the rifle was absent there before the visit of militia. During writing the protocol the militiamen suddenly found a package with some green powder in the center of the floor of the living room. Both I and witnesses testified that we had not seen this package during the search. When I refused to sign the protocol, they began to threaten me that they would take me to the precinct. Next day my son got an administrative arrest for 7 days long. In the same evening I turned to the prosecutors because I learned that my son was beaten in the DFOC office. The prosecutor answered that he had already phoned to the DFOC head Pluzhnik, and that they would not beat my son any more. Nonetheless, next day, on 13 April, my son was cruelly beaten by militiamen Makarenko and Kompaniets. Besides, for about three hours he was tortured with electric current. Naturally, my son had to confess that the drugs (the green powder) belonged to him and that he even grows the drugs. The law-enforcers also demanded from him to confess in some armed attack. On 15 April 2002, after my demands, my son was examined by a forensic expert, to whom the son told how he had been tortured in militia. On the same day my son was released, since I turned to mass media. The prosecutor told me that they would open a criminal case concerning the fact of confiscating the firearm and drugs. But why they do not want to open a criminal case against the other side: concerning the illegal invasion to my flat, the shooting and gravely wounding an innocent boy? My son is innocent too. On 11 April the firearm and drugs appeared in the flat thanks to militiamen, who wanted to frame the suspects to conceal their own illegal actions.

(«Informatsiyny buleten», No. 24, 1-15 May 2002)

* * *

Inspector lieutenant Leonid Protsenko (the village of Chulakovka, the Kherson oblast) was dismissed and condemned to 12 years of incarceration by the court chamber in charge of criminal cases of the Kherson appeal court. He also was condemned to pay 36.8 thousand UAH to recompense the moral and material damage to the family of the perished because his guilt.

Having accepted the complaint from a robbed villager, the Chulakovka «sheriff» to visit the house of the victim. There he found a rather tipsy visitor and beat him solidly. In the same evening the sheriff with his deputy came to the house of the suspected in the robbery. The inspector without any ceremonies dragged the culprit to the yard, hit him in the face and shot him through the temple. The tragedy could have been avoided, if the district militia precinct commanders had known better the character of the inspector. Less than a fortnight before the murder, the lieutenant suspected three villagers, who were drinking beer near the building of the village council, in some bad intentions,

drew his gun and searched all the three. One of the beer-drinkers mentioned human rights, for which the lieutenant infuriated and hit him in the face, then the inspector shot him in the head. Fortunately, the cartridge was not in the barrel, and the man remained alive.

The district militia commanders were dismissed.

(«Kievskie vedomosti», 28 May 2002)

* * *

The town of Yasinovataya near Donetsk. This is the place, where a drama happened in the beginning of March. Some strangers beat a former friend of Nikolay Matsyk. On 5 March Nikolay was summoned to the local militia precinct as a witness. He entered the precinct sound as a bell. In three days he was carried through the back entrance being practically an invalid.

From the very beginning Matsyk was driven from one office to another and from one investigator to another. They demanded from him to confess in the beating of his former friend. But the guy appeared tough, so they threw him to a cell!

The worried family found an advocate, Parkhomenko by name, who began to look for Nikolay. In the town militia directorate they told him without blushing that they did not see Matsyk. Town prosecutor's deputy D. Lysenkov found a mention of Matsyk in some militia documents, but did not find any grounds for his detention, so he ordered to release Nikolay. But Nikitenko, a deputy head of the town militia directorate, ignored the order. He himself interrogated Nikolay driving the advocate outdoors. This happened at 4 p.m. The interrogation in the presence of advocate began only at 22:50, the protocol was signed at 23:15. Matsyk negated his guilt, and the investigators had no proofs. Nevertheless, the suspected, disregarding advocate's protests, was again put to the cell. N. Matsyk affirms that beginning from midnight and during five hours he beaten in turn by Nikitenko and his subordinates Sidorov, Filatov and Goncharenko.

This story became known to Donetsk journalists, and the oblast newspaper made public the names of the torturers. Motor ambulance doctors, who were summoned in the morning, found Nikolay unconscious. Militiamen permitted bring him to consciousness, but prohibited to take him to the hospital. Yet, it seems that the execution continued, because two hours later the motor ambulance was summoned again. This time doctors insisted on hospitalization of the guy. He had the cerebral brain concussion, contusions of chest, spine and groin. «He was beaten black and blue», the witnesses told. The militiamen frightened by the possible death of their «client» brought through the back entrance. They put the victim to a car and brought him to the hospital. Here they handcuffed Nikolay to the bedstead and left guards. The guards were taken off from the duty only 72 hours after Matsyk detention. So the law is executed. During this time the law-enforcers beat out of the suspect the confession and the classical explanation of the origin of his injuries. Yet, after the release the victim handed a complaint to the town prosecutor's office. There the complaint was considered even without questioning the doctors, and the decision was taken: there was no corpus delicti in the militiamen's actions. The same conclusion was drawn by the oblast prosecutor's office and the directorate of internal investigations.

But on 3 April the Yasinovataya town court disagreed with the decisions of the above-mentioned agencies, cancelled these decisions and directed the case to the town prosecutor's office for the repeated consideration. The prosecutor's office did not protest against the decision, but it does not hurry to open the criminal case buy articles «illegal detention» and «inflicting body injuries». On 16 April the same court presided by Valentina Boychenko acknowledged the detention of N. Matsyk as illegal. This court ruling was sent to the General Prosecutor's office and the Ministry of Interior, but until now there has been no reaction.

As to Matsyk and his advocate, they are threatened, provoked for some conflicts and fights. That is why they try not to leave homes without need. The local journalist assure that on the day, when the decision about the illegality of Matsyk's detention was taken, town prosecutor Miroshnichenko and militia commander Martyniuk insisently tried to be received by A. Dobrynin, the chairman of the Yasinovatya town court.

(«Svoboda», No. 20, 28 May – 4 June 2002)

* * *

According to the data of the information center «Antiterror» of the Ministry of Interior in the Lviv oblast, law-enforcers detained 16-year-old M. on suspicion of robbery: he tore off on the run a golden chain from a woman. On the third day of staying in the cooler of the city militia directorate the minor made a noose from his shirt and hanged himself on a two-level metallic bunk. Mikhail Kurochka, a deputy head of the Lviv city directorate of interior, stated that the prosecutor's office refused to open a criminal case concerning ignorance of their duties by the personnel of the detention block. Everybody concerned the accident, got not more than reprimands.

The accident happened in the building, where the detention bloc of the Lviv oblast USS was once situated.

(«Fakty», No. 100, 5 June 2002)

* * *

On 3 June at 18:35 the head of the detention block talked with the minor asking about his complaint and wishes. Seven minutes later the guard on duty saw the boy putting his head through a noose. The personnel hurried to save the boy, but neither they nor coming doctors could revive him. According to Mikhail Kurochka, the minor was under the surveillance of militia since he was 11.

This was not the first similar accident in this cooler. During last three months three detained tried to commit suicides: two through hanging and the third tried to cut his veins.

(«Segodnia», No. 121, 5 June 2002)

* * *

Nikolay Moskalev, the head of the Sumy public union of Gypsy culture, said that the visits to militia precincts, where he releases (often with a scandal) his brethren, became his permanent job. N. Moskalev believes that to be a single wolf without ties with a Gypsy band is very dangerous. If the Gypsy can prove to militia the innocence of its member, the individual Gypsy without money hardly can do this. It happens sometimes that a Gypsy comes to some new district, and militia directly warns: «More off. If you do not, we shall find a pretext to detain you first for 15 days. And then we shall, maybe, find some narcotic drugs on you, and you will have to forget about freedom».

Maria Ivanova, an advocate cited an example from her practices. She was summoned to a preliminary prison to a Gypsy she knew well. But she saw in a dirty cell not a young healthy man, whom she had known, but an old man covered with blood. His curls were scattered under the chair. Motor ambulance doctors confirmed that the man really has been cruelly beaten. Sever hours after the medical examination he was released with the standard formula «absence of corpus delicti»

(«Kievskie vedomosti», 21 June 2002)

* * *

Recently in Chernivtsy there happened a consecutive event of arbitrariness on the side of the people, who are called law-enforcers. After a house burglary militia began to seek for the guilty. A 24-year-old dweller of Chernivtsy was careless enough to get in their way. Although the young man had an unbreakable alibi, since he was in a church with his friends, what was also confirmed by the sexton, he was detained. The arrest was conducted with all possible violations of human rights. The suspected was not familiarized with the accusation, he was handcuffed, thrown to a militia car and brought to the district precinct. Here the interrogation began. The man told later that he was beaten with rubber clubs. He fainted, urinated with blood, begged: «Take me to a hospital, I shall sign whatever you want». The militiamen at last agreed with this proposition. The victim was passed to doctors. They found the cerebral brain concussion and rupture of the rectum. Now the man undertook two operations and waits for the third one. His mother insists on punishment of the guilty.

(«Ukraina moloda», No. 112, 20 June 2002)

* * *

On the eve of the New Year 2002 the manager of the firm «Stokmaster» got in the bank «TMM» some cash to pay for some floater. He was carrying

the money to his firm, but several tax militia officers learned about this. This was the beginning and the cause of all that happened. On his way the manager was stopped by the officers of the Kyiv directorate of tax militia. They beat him, tied his wrists with a belt and lay face down on the ground. After this they searched his car, checked his documents, and transported him to the office of his firm, where his boss was at that time. The tax militiamen searched the office referring to a criminal case, having no connection either with the firm or with its manager. In the afternoon the tax militia, having neither any grounds nor warrants, detained seven counteragents of the firm, who came to the office. After this all the detainees were brought to the tax militia for giving evidence concerning a criminal case, about which they knew nothing and got not explanations. Firm director Stepanenko was brought to the tax militia separately being threatened with physical violence. There he, as a witness, underwent an inhumane interrogation: it lasted 36 hours without breaks. N. Musienko, one of the detained, who did not work in the firm, warned the militiamen about the poor state of his health. Yet, this did not stop, but even encouraged the law-enforcers: they found a weak link – understood that they had an opportunity to extract the needed testimony for the life of a sick man. Musienko was made to give evidence against another involved person, Stepanenko. The aim, from the viewpoint of criminal procedure was obvious – to find the grounds for confiscating the money. Witness Musienko could not stand the torture called the interrogation and was taken to a hospital in a grave state. Yet, this did not stop his tormentors. Investigating officer V. Denga accompanied by several plain-clothed militiamen burst into the ward, where Musienko lay, and threatened him with weapons. The head of the intense care ward got his share of troubles too. He also got a summon to the tax militia.

The investigator permitted doctors to render medical aid to Musienko only after the latter fell into coma.

Being interrogated, Stepanenko demanded to call an advocate. The advocate was summoned as witness and tried to obtain from him the testimony against his client. He was made to write the note with the explanation why he agreed to defend Stepanenko.

Nowadays nobody can be guaranteed against cruel and arbitrary actions of law protectors.

(«Svoboda», No. 24, 25 June – 2 July 2002)

* * *

G. Konovalova:

«My case is connected with the events that happened on 11 April 2002 in the town of Kremenchug. This day my son, Aleksandr Konovalov, was detained on the suspicion of a crime (D. Litvin and V. Kovalev were also detained in the connection with this case). On 15 April 2002, on the day, when

the Poltava district court decided to arrest the detained, we, mothers, accidentally saw in what condition V. Kovalev was brought to the court. He was dragged supported under arms, he was beaten black and blue, his face was swollen, his head wavered, he was unconscious! I did not manage to see my son – his case was considered earlier, without an advocate. I do not doubt that L. Timokhina, the investigator of the department for fighting organized crime (DFOC) of the Poltava oblast, did not tell the advocate on purpose about the real time of the court session. I believe that she wanted to conceal the state of health of our children, who had been tortured by militia.

Will the Poltava district court, DFOC and Poltava oblast prosecutor's office confess the fact of torturing the detained? On 15 April 2002 we, mothers turned to the oblast prosecutor asking to conduct the forensic expertise of the detained. We received the following answer: «On the basis of Article 6 item 2 of the Criminal-Procedural Code of Ukraine were ruled to refuse to open the criminal case». The response contained not a single word about the forensic expertise and about applying illegal methods of interrogation by the law-enforcers. My son, staying from 16 May to 23 May 2002 in the Kremenchug town detention bloc, was tortured again. Being unable to stand this torture, he tried to cut his veins. Can one stand such torture?! They press the bare wires under electric current to head and fingers, put the electric current through genitals, put a gas mask on the head stopping income of air. I sent the complaint of 20 May 2002 to prosecutor O. Mikhaylik and got a response that my complaint was redirected to M. Karmazin, the head of the investigating department of the Poltava oblast prosecutor's office, who had already refused to answer my complaint of 15 April 2002. I sent a complaint to the General Prosecutor's office of Ukraine too.

I am writing this letter with the hope to be endorsed by public. The law-enforcing system in Ukraine purposely conceals the existing problem: using illegal methods for investigation, torture applied by militiamen with obvious sadistic inclinations».

(«Informative bulletin», No. 31, 26 June – 2 July 2002 ?.)

* * *

Last year 58-year-old Myron Zinkovskiy from Novoyavorivsk undertook an operation on removing an intestine tumor. He spent three months in the hospital, went through chemotherapy. Recently he, as a convalescent, strolled around the stadium of school No. 3. «You will show you how to spoil car locks!», cried a young man, jumped at the elderly man and began to beat him. When the victim asked the attacker not to beat, since he was just after an operation, the attacker answered: «You will need more operations!» one more man, the father-in-law of the attacker, was attentively observing the scene. It is

unknown what will be the tragic end of the encounter, if Miron's neighbor appeared. He pulled the victim out of his attacker's arms and took him home.

On the same day Zinkovskiy handed a complaint to militia. It appeared that the invalid was beaten not by a common passerby, but by a militiaman of a patrol squad of the Lviv oblast militia directorate. The mentioned father-in-law was a militia lieutenant colonel from the department of fighting organized crime. It is unknown why these law-enforcers decided that an elderly passerby, an invalid, would spoil their car locks. Either it is not understandable what right they had to lynch. Myron Zinkovskiy sent a complaint to Volodymir Orlynski, the head of the militia directorate of the Lviv oblast. Unexpectedly the directorate reacted to the complaint. An officer came to Novoyavorivsk, who checked the complaint and confirmed «the illegal actions of the militiaman of a patrol squad». The materials of the check were passed to the prosecutor's office of Yavorivsk district, from where an astonishing answer came signed by O. Kharambura, an investigator of the prosecutor's office. The investigator did not reject the fact of beating, but he refused to open the criminal case «because of the absence of corpus delicti» in the militiamen's actions. In his response the prosecutor's officer explained that Zinkovskiy got «superficial body injuries with short-term health deterioration». And the attacker, the investigator pointed out, «in the given case not as a law-enforcer, but as a private person»

After this beating Myron Zinkovskiy spent twenty days in a hospital with the diagnosis «closed cerebral brain trauma and cerebral brain concussion». The militiaman was off duty this day. But, according to the oath given, a law-enforcer must always protect law. Now the decision of the district prosecutor's office has been directed for the cassation to the Lviv oblast prosecutor's office. But, most probably, the son-in-law of the colonel-fighter with organized crime will remain unpunished and will continue his vigilant work in law-enforcing organs.

(«Vysoki zamok», 27 June 2002)

2.3. TORMENTING FOREIGN CITIZENS

Today the life of refugees is regulated by two agencies, to be exact, by two diametrically oppose legal bases. On the hand, the migration service that cares about the image of Ukraine according to the international conventions signed by her and gives refugees the needed documents. On the other hand, the law-enforcing organs that bring refugees to responsibility for realizing those very rights given by the former agency the action, basing their actions on the Ukrainian laws and sublegal instructions.

Roby Ashenafi, the head of the reception center of the Directorate of the UNO Supreme Commissar in charge of refugees, believes that Ukrainian laws agree with international demands more than law of any other CIS country. The problem is how these laws are fulfilled.

According to the Law «On refugees» signed on 21 June of the current year, refugees «have the equal with Ukrainian citizens rights for transportation, for free choice of residence, for health protection, for recreation, for owning, using and mastering the results of one's intellectual and creative activities, for turning to ombudsperson to protect one's rights». But this all is on paper...

Roby Ashenafi:

«Choosing of residence is not a right for a refugee, it is his duty. He must register at the place of residence for confirming his status. The registration must be updated every three months. Violating the right for free transportation is closely connected with the registration. Refugees must have a permission to move around, the reception of this permission is strictly regulated, but in practice it is near to impossible to obtain such a permission. And these practices function now, when almost only source of income for refugees is trade. And for successful trade one must move around. Having left his fixed residence without a permission a refugee gives militia a pretext to detain him and fine in spite of the fact that the refugee has the document issued by an official Ukrainian organ, and on the last page of this document it is written in black and white that he «has the right for free transportation around the Ukrainian territory». Militia refers to the sublegal instruction, which reads that moving around the territory of the state for refugees is constrained by a number of demands. Both of them, a refugee and a militiaman are right, by the militiaman usually is more right. Even crossing the border of a neighboring city district in capital may be qualified as a violation. For some reasons unknown refugees have no right to be registered in employment bureaus. And because of the above-mentioned demand to re-register every three months solid employers avoid hiring refugees. Refugees always feel uncertainty and instability. Many have to pay for medical aid».

(«Kharkovskiy telegraf», No. 40, 24-30 December 2001)

3. LAW-ENFORCERS VS. JOURNALISTS

In the small hours of Sunday morning near the village of Peschanoe in the Cherkassy oblast some militiamen detained the driver, who transported to Kyiv a run of the opposition newspaper «Svoboda». The law-enforcers devastated the entire run. As Forum informs, the criminal case has been already opened, but the prosecutor's office refuses to communicate in accordance with which article. Candidate to people's deputy Stanislav Zhurilo, the manager of the firm «Respublika» and the head of the oblast election headquarters of the bloc «Our Ukraine», told that before this he had been threatened and was tailed. Yet, he did not connect it with his publishing activities. The central material in the destroyed issue of «Svoboda» (26 March – 2 April) was the request of MPs G. Omelchenko, A. Ermak and V. Shishkin addressed to the first deputy of the first deputy of the General Prosecutor. The request concerned the General Prosecutor. The material was published under the title «Potebenko was caught red-handed taking a bribe from Volkov».

After the newspaper printed the second run of the same issue, the printing shop was surrounded by militia cars, the run was arrested and brought in the direction unknown.

(«Vechnie vesti», No. 46, 27 March 2002)

* * *

On 23 March the Cherkassy oblast prosecutor's office opened a criminal case concerning the misuse of power by the administration of the Cherkassy publishing house «Respublika», abusing privacy and resistance to law-enforcing organs in fulfilling their service duty on the side of Oleg Liashko, the editor of the newspaper «Svoboda», and the personnel of the publishing house.

(«Yuridichny visnyk Ukrainy», No. 16, 20-26 April 2002)

* * *

On 15 April the prosecutor's office of the Cherkassy oblast detained Oleg Liashko, the editor of the newspaper «Svoboda», who was summoned there for an interrogation connected with the confiscation of the run of issue No. 11 of the newspaper.

«Svoboda» journalists informed that Liashko was accused of resisting to law-enforcers during the confiscation.

(«Tovarishch», No. 16, April 2002)

See also:

1. «Svoboda», No.12, 27 March 2002 (special issue).
2. «Svoboda», No.14, 16-23 April 2002.
3. «Svoboda», No.15, 23-30 April 2002.

* * *

The collegium of the Cherkassy appeal court satisfied two appeals of Oleg Liashko's advocates against the decision of the Sosnivski district court, in accordance with which on 15 April Liashko was detained, and on 17 April the detention term was prolonged up to 10 days. This prolongation, as it was said in the court decision, was needed for a detailed identification of the detainee.

The oblast prosecutors explained Liashko's detention by the fact that the newspaper editor several times ignored the summons of the prosecutor's office investigators and did not come for conducting investigation actions.

Oleksiy Baganets, a deputy of the General Prosecutor told that «O.Liashko may dodge the investigation and trial and to impede establishing the truth; that is why the decision was taken to detain him».

(«Silski visti», No. 51, 26 April 2002)

See also «Golos Ukrainy», No. 78, 25 April 2002, p.2; No. 79, 26 April 2002, p.3.

* * *

On 23 April the prosecutor's office of the Cherkassy oblast changed the preventive measure applied to Oleg Liashko, the editor of the newspaper «Svoboda». He was released from custody in exchange for the obligation not to leave the town.

(«Tovarishch», No. 17, April 2002)

* * *

The personnel of the newspaper «Svoboda» asserts that in the 217th district some strangers put to mailboxes a faked newspaper with «Svoboda» logo-type.

(«Vechnie vesti», No. 47, 28 March 2002)

* * *

Cherkassy prosecutor Oleksandr Litvin confessed that the contents of the newspaper «Svoboda» had been already known, when the search of the publishing house «Respublika» began, and the prosecutor's office had grounds to think that this issued contained some «confidential information». The prosecu-

tor did not say exactly to which degree and about whom this information was confidential. The militia actions were qualified by the prosecutor's office as «destroying property». Maria Sambur, a lawyer of the Institute of mass information, is sure that the prosecutor's office tries to diminish the social significance of the felony as early as during its qualification. The matter is that the destruction of the run of the printed edition completely and literally corresponds to Article 171 of the Criminal Code, which treat about impeding the legal professional activities of journalists. By the way, some time ago the Cherkassy prosecutor's office twice refused to Valeriy Vorotnik, the published and a journalist of the newspaper «Antenna» to the criminal case for impeding the professional activities.

(«Ukraina moloda», No. 95, 28 May 2002)

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Last week Oleg Liashko, the editor of the newspaper «Svoboda», handed the claim to a court about acknowledging illegal the actions of Grigoriy Kucherenko, the prosecutor of the Sosnovski district, and Ivan Luta, an investigator of the same prosecutor's office. On 23 March these law-enforcers basing on the illegal decision of Mykola Dmitrenko, an acting head of the Sosnovski district court, confiscated the 103-thousand run of the newspaper «Svoboda» from the Cherkassy publishing house «Respublika». This was done allegedly due to the investigation of the criminal case opened on the previous day about the misuse of power by the administration of the publishing house. Several days later Ivan Babenko, a deputy of the head of the investigation department of the Cherkassy oblast prosecutor's office, opened the criminal case against Oleg Liashko for resisting the law-enforcers, who confiscated the run of the newspaper «Svoboda». On 15 April Babenko detained Liashko and took him to the Cherkassy preliminary prison, where the journalist spent almost 9 days.

On 24 April the Appeal court of the Cherkassy oblast acknowledged illegal o. Liashko's detention, but after this oblast prosecutor O. Litvin approved the accusation in Liashko's case, and the case was passed for consideration to the same Sosnovski district court. Prosecutor Kucherenko and investigator Lug were acknowledged as victims.

The case about the misuse of power by the administration of the publishing house is not still investigated, as well as the case about the attack at the truck transporting the newspapers.

By the way, no one of the mentioned officials was not punished for the illegal Oleg Liashko's detention and keeping under custody. Babenko is protected by his chief A. Gulakov, who, in his turn, is protected by oblast prosecutor's office Litvin, and the latter is protected by the administration of the General Prosecutor's office (O. Baganets, M. Garnik).

(«Svoboda», No. 20, 28 May – 4 June 2002)

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The accident to be described occurred in the TV company «Exspress-inform». The journalists' work over a consequent political news feature was unexpectedly interrupted by armed people, who rushed to the room. Larisa Golub, the editor-in-chief of the TV company, told that the people represented themselves as officers of the Kyiv department for fighting organized crime (DFOC) and ordered to leave the room. No documents were shown. The «quests» forbade the personnel to use telephone, broke a TV camera and tore the jacket of one of the journalists. Thus, they paralyzed the journalists' work for two hours and a half, then they left the company without explanations and excuses. As it became known later, the DFOC explained this accident by the fact that the decision was taken to confiscate documents from a commercial firm, situated in the same building. Several people, who are candidates to the Parliament from the bloc «Our Ukraine», work in the same building.

(«Pravda Ukrainy», No. 45, 26 March 2002)

The chronicle of the events around the beatings in the Chortkiv militia precinct

Oleksandr Stepanenko, Chortkiv

On 16 October the permanent deputy commission of the oblast council in charge of the questions of legality and legal policy held the sitting. The commission considered my request to Major-General V. Maksimov, the head of the militia directorate of the Ternopil oblast, concerning the cases of beating people by the officers of the Chortkiv district precinct in 2002. To be more exact, the request concerned the cases of: M. Burtnik, who, after being beaten by militiamen on 7 June 2002, was taken to the surgeon ward of the Chortkiv district central hospital with the complicated polytrauma; Ya. Skrynik, 44-year-old, similar case on 18 June 2002; I. Makar, who was brutally beaten by militiamen before the eyes of his wife and children on 12 July 2002; O. Podolchuk, to whom, as the letter of his father reads, the illegal methods of «physical influence» were applied during the detention and investigation, now Podolchuk is condemned. It is interesting, but I was not invited to the sitting of the commission and appeared at the sitting accidentally: I visited the oblast council on other affairs. V. Maksimov, who, by the way, is the head of the mentioned commission, quoted the results of the «service investigations» conducted by the oblast militia directorate and prosecutor's office. In all cases the investigation issued the following resolution (verbatim): «After the consideration of the existing materials, explanations of militiamen and the complaints of the above-mentioned citizens the investigation could not uncover any violations of the operating laws by the officers of the Chortkiv district militia directorate». The conclusions of the service investigation were reported to the

commission. In my opinion, these materials purposely distort the real facts. The intention is obvious to make the other side responsible for the conflict. For instance, the information on the case of Yu. Skrynik is overflowed with the comments on immorality and dissoluteness of this man. At the same time, the fact that Skrynik was beaten in the precinct is not refuted in any way. It is obvious that the investigators did not even meet with the victim, who did not deny the fact of beating, although did not turn to the prosecutor's office.

In the case of O. Osadchuk the «proof of the legality» was the list of the accusation items, according to which he was condemned (by the way, the repeated trial will be conducted), but there were no information whether any methods of physical pressure were applied to him.

The conclusion on the case of M. Burtnik is grounded on his own statement, in which he asserts that he got the traumas as a result of falling downstairs. Since I was present when M. Butnik was conveyed to the hospital, I may testify that this is a lie. The victim was received by two doctors having 20-year experience of practical work. Both of them were sure that it was impossible to get such traumas as a consequence of «falling downstairs» – the man was beaten within an inch of his life. The fuss made by the militia at this night in the hospital was also rather transparent, and some of the militiamen honestly admitted: «our boys were too assiduous today». That is typical that in any of these cases there are no references to medical case history. I want to quote a record from the case history of victim Ya. Skrynik made by doctor in charge Ya. Ratushniak: «the patient insists that he was beaten in the district militia precinct». Further the description of the patient's state is following: «The posture is forced, sitting... breathing is superficial, rapid, interrupted. Dried blood on the lips. Hemorrhage in the sclera of the right eye. Numerous injuries of the face. The external tissues of the thorax are painful with numerous haematomas and abrasions, the skin injury is present on the left side in the form of the boot sole. Harsh crepitation in the lungs... The abdomen is painful during palpation...», etc. The similar state was established by the anesthetist, surgeon and traumatologist.

The investigation of the case of beating M. Makar is also based in this statement that he «has no complaints against the militiamen». It is interesting that M. Makar does not deny that earlier he sent the complaint concerning the beating to ombudsperson Nina Karpacheva. I am sure that the fact that after some time the victims begin to deny the beating must not «amnesty» the law-enforcers, who apply the physical violence to the people, whose rights they must protect. Moreover, if a person, who was beaten and humiliated, submits the impunity of his offenders, it means that he underwent not only the physical violence, but also the moral one.

And the question why the top militia officers are not interested in stopping crime in their agency is the topic for another, not less disturbing discussion. After all, the head of the oblast directorate satisfied, although only orally,

the information request of the local correspondents of the bulletin «Prava ludyny» concerning the cases, where law-enforcers were punished for the cruel treatment of the detained. V. Molsimov declared that there were no such cases during the last three years, although two officers were dismissed from the oblast militia for driving car being drunk.

However, if all the «service investigations» are conducted as described above, there are serious reasons to have some doubts as to this idyll.

«Prava Ludyny», November, 2002

How the international Convention against torture is obeyed in the Odessa oblast

Alla Korystovskaya, the deputy head of the Ukrainian Party of human rights protection, the head of the human rights protection fund «Rutenia», Odessa; Aleksandr Orlov, a member of the Ukrainian Party of human rights protection, Krakow

«I ask to protect me from militia. I am not guilty... The militiamen of the Zatoka and Belgorod-Dnestrovski precincts forced me to confess: they beat me, hanged me by my handcuffed wrists on a pipe until I failed, threatened to kill me». This is a quotation from the complaint sent to the Belgorod-Dnestrovski town organization of the Human Rights Protection Party by 15-year-old Ruslan Kulik, a dweller of the village of Shabo, the Odessa oblast.

On 14 August 2002, in the recreation zone of the settlement Zatoka, the dead body of Leshek Bendezh, a young Polish citizen, who disappeared on 5 August 2002, was found in the sewer system.

The boys detained on the day, when the body was found, told the following story. For many years the attractions in Zatoka have been controlled by Odessa administrator Aleksandr Abramovich and Czechs. The attraction «Solnyshko» with children swing is situated in one hundred meters from the basic complex, rather far from the cafe, from where Leshek disappeared. Ruslan Kulik and several other minors worked at the attraction for 10 UAH (!!!) per week. They worked from morning to 1 a.m. They had to tidy up the territory. The administration even gave them the place for the night rest... in the toilet.

On 5 August 2002 Leshek Bendezh and his friend were sitting in the cafe. Leshek left the cafe «for a moment» and disappeared forever...

The application about the disappearance of the Polish citizen was handed to the settlement militia by his friend, Ryszard Wiatr, in the evening of 5 August.

The body of Bendezh was found by the putrid smell, when he began to rot.

The boys, who worked at the attractions, were detained, taken to the settlement militia precinct and brutally beaten. The law-enforcers said to Kulik: «You know, who murdered the Pole, but you do not want to confess». The boy could not endure the torture and agreed with everything. He and other boys got the status of witnesses and were transported to the Belgorod-Dnestrovski town

precinct. The people, who were present there, heard the entreaties of Ruslan's mother: «Sonny, they will maim you, tell them all they want, tell them that you are the murderer!»

Here is the story of one of the boys. «I was beaten on my head by three civilly clothed militiamen. Then I was handcuffed and hanged on the metal pipe. I hanged for several minutes that seemed endless; it was very painful and I asked district militiaman Vasilij Vovchenko to release me promising that I should tell everything. They dictated me my evidence. I knew that this evidence was false. For example, I wrote that on the day of the murder (and I even did not know the date) one my acquaintance was near the cafe «Poseydon», while I knew that this day he was in Odessa. Then I wrote something about Vova from Illychevsk, a former militiaman.

I was beaten by the militiamen from Belgorod-Dnestrovski, since they were sure that I knew where the weapon was, while I had no slightest idea of this. One of them told that somebody shot at their car and even proposed to show me the traces. But another militiaman said that they had to ask the permission from colonel Yankov and began to beat me again. The room was little and I struck against the furniture. When I was beaten in the building of the Belgorod-Dnestrovski precinct, I heard the cries of other boys. They were crying so awfully that I thought that my torturers were not the cruelest, although they beat me very painfully. Later I saw Vova from Illychevsk, his hands were black and blue. Vitaliy Kukhtia told that they handcuffed him through the bars and hanged the weight on his hands. Kukhtia was interrogated by officer Spoty kaylo, who was especially cruel. Blood flew from under his nails. We (two guys from Odessa, one from Illychevsk and one from Shabo) were lined before the cops and each of them had to choose, whom he wanted to interrogate. I was chosen by a sergeant. Other boys, Vasya and Ali Shuknorov from Odessa, got to officer Solomonov from the Belgorod-Dnestrovski precinct and were brutally beaten by him. My sergeant spoke normally, but later an officer from Odessa came, who began to beat me. He asked: «Did you see the Pole?» I answered no. He hit me on the head. After every my «no» I was hit on the head or in the face. It was painful and I said that I would sign everything, but he retorted: «You will write everything with your own hand». I wrote that I nearly saw myself, how somebody murdered the Polish guy. All this was a fib...

The cops transported me to the place of the crime. I know this area well, so they wanted to make a witness out of me. I was transported there with Ali. I asked him: «Do you know something?» «Nothing, I even do not know what they want from me», he answered. The militiamen said to me that other boys told everything, and that I had to do the same. So I wrote what they dictated to me. I gave evidence against my acquaintances and neighbors, against my schoolmates, against the people, whom I haven't seen for a long time. Ali was

made to sign the protocol that he pissed in a public place, and was left in the cooler for the night.

Every night the cops were drinking vodka in the precinct. We were very hungry. I asked sergeant Yuri (he was the only one, who did not beat me) to buy me some cookies, and he bought.

The militiamen did not return our things, so I lost my purse with the earned 35 UAH and the invitation card.

When my mother was taking me from the precinct, they told her that it was me, who killed the Pole. Mother asked me to confess, but I had nothing to confess about. At the confrontations I told the truth, but they did not beat me, since I came here with my mother».

That is what we heard about this case.

Now the boy is treated by a psychologist. He comes back to the norm with great difficulties. Soon he must be recruited to the Ukrainian army, and it seems doubtful that he would be acknowledged as able-bodied for the combatant service.

Kuzma Legun, the 80-year-old manager of the attraction complex, was also taken to the Belgorod-Dnestrovski precinct. The old man felt unwell, but all the same he was transported to the town. In the town the law-enforcers understood that the man could die in their car or in the precinct and threw Legun from the car in 20 kilometers from his home. Of course, they did not care how the feeble old man would get home.

The law-enforcers showed Kulik the things he had never seen before, such as the lighter, which allegedly belonged to the Polish boy. Kulik vaguely understood what he was saying, so he confirmed that the things really belonged to the Pole.

The Human Rights Protection Party sent the telegram to the Ministry of Interior of Ukraine with the appeal to protect the minors, who suffered from the sadism of the militiamen. The officers of the internal service of the Odessa oblast militia directorate checked the described facts. How do you think, was anybody punished? Of course, no! One of the militiamen said to Kulik's mother: «You turned to human rights protectors? You want to go to the court? Take care, you may lose your son!»

According to our information, the situation in the Baltskiy, Frunzenskiy, Nikolayev, Kominternovskiy and Ovidiopol districts of the Odessa oblast is not better.

So, who would investigate the actions of law-enforcers, the actions that are classified as torture by the new Criminal Code of Ukraine?

21 October 2002

«Prava Ludyny», November, 2002

4. INFORMATION ON TORTURE AND CRUEL TREATMENT IN PENITENTIARY ESTABLISHMENTS

4.1. SOME GENERAL DATA

By 1 February 2002 193.3 thousand persons stay in Ukrainian penitentiaries, informed Vladimir Levochkin, the head of the State penitentiary department. About 29 thousand convicts got under the last amnesty, about 100 of them were again detained on the suspicion of various offences. 706 persons with life-long terms are now kept in Ukrainian penitentiaries.

There are 180 penitentiaries in Ukraine. In particular, 131 of them are reformatory establishments and 33 are preliminary prisons. The country has 11 penitentiary for minors and those, who are kept there up to 20 years old for social adaptation (10 for men and 1 for women).

(«Vechnie vesti», No. 30, 28 February 2002)

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Mykhaylo Verbenskiy, a deputy head of the State penitentiary department, informed that 2800 minor criminals (14-18 years old) are kept now behind the bars in Ukraine. 2954 more have the records in the Criminal-executive inspection, which since 1 January 2001 deals with the punishments not connected with incarceration. 1893 minor have postponed verdicts. 13% of the incarcerated minors are 14-16 years old, 70% – 16-18 years old. As to incarceration terms, the one third got 1-3 years, half – 3-5 years, 17.5% – 5 years. 49% were bred in incomplete families, 15 % have the education from 1 to 6 forms. Some children get colonies unable to write and read. Last year 421 children obtained certificates on finishing the elementary school, 291 – certificates of the secondary education and 1291 – certificates on getting worker professions.

(«Molod Ukrainy», No. 66-67, 31 May 2002)

4.2. SOME GENERAL PROBLEMS

The Law on preliminary incarceration prohibits minors staying in preliminary prisons to meet with their parents and relatives, allegedly in the inter-

ests of investigation. Yet, the interests of the minors and their psychological state are regarded as a problem without importance. So, for six, nine, twelve months or even more a child stays in a cell. Almost every minor convict is scared by the circumstances and has a very unstable psyche. Most them are from orphanages or so-called unfavorable families. The child is visited only by his investigating officer, when the latter thinks it advisable. The personnel of preliminary prisons include social worker, but he is one for 100-170 children, other similar staff is not envisaged by instructions. It is true that being permitted by the investigator the incarcerated child may get the right to see a psychologist. But children do not know this, and getting such a permission is a sophisticated procedure. Natalya Maksimova, a professor of the faculty of sociology and psychology of the T. Shevchenko National University, tells that nowadays nobody is obliged to explain such children the peculiarities of their status. Nobody cares to make children not to be afraid of investigation, not to obtain distorted ideas about possible punishment, trial and life in reformatory colonies.

Special polls conducted in preliminary prison by the Center of social services for youth showed that the proportion of illiterates among the minor convicts is rather big. Almost half of the children before getting to prison did not come to school for one or more years.

N. Maksimova believes that the greatest attention must be paid to legal enlightenment of the «special contingent» – at least they must get acquainted with the Covenant on children's rights.

Now more than two thousand children stay in preliminary prisons of Ukraine.

(«Ukraina moloda», No. 186, 11 October 2001)

Most convicts in Ukraine are not socially dangerous

The reason is that incarceration as a punishment for a crime is often applied without adequate reasons, reckons Igor Andrushko, the deputy head of the State penitentiary department of Kyiv and the Kyiv oblast.

He remarked that in 60% of cases punishment is much graver than the committed crime.

At the same time, Mr. Andrushko told, during the incarceration people, as a rule, submit psychological changes, and, because of this, they have difficulties in the adaptation at large. According to his words, the psychological groups that prepare convicts for the life after the release now work in the penitentiary department.

In particular, six months before the release the incarcerated undergo some special training, where they are taught how to find a job, how to obtain the necessary documents and some other «pity tricks», without which it is difficult

to survive on the other side of the bars. Those, who have no relatives and friends outside, Andrushko said, have more difficulties to set up or restore social ties. These people are directed to the militia stations, where they had committed the crime, and the militia has the duty to assist them in the social adaptation and to control the process.

UNIAN

«Prava Ludyny», January, 2002

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353 convict are waiting for their cases to be considered by the Appeal court of the Donetsk oblast (by 16 January 2002). Among them the time of expectation is:

- up to 3 months – 62 persons;
- from 3 to 6 months – 74;
- from 6 to 12 months – 132;
- longer than 12 months – 85.

From the letter to Ukrainian President Leonid Kuchma signed by V. Boyko, the head of the Supreme Court of Ukraine, and V. Krivenko, the head of the council of judges; the letter is signed in May of the last year:

«The pretext for the immediate consideration of the question about the state of processing criminal case by the Donetsk oblast court became the rough violation by the state of the rights, stipulated by the Ukrainian Constitution and European Convention of human rights, of citizens brought to criminal responsibility and kept under custody for justice and open consideration of their cases in reasonable terms and by unbiased court. Now 288 such convicts wait for about a year when their cases will be considered, and 32 wait more than a year. The court must plan considering criminal cases not only in the courtroom, but also during outgoing court sessions, since the building of the oblast court does not permit to consider more than four cases simultaneously. At the same, during last years the Ministry of finances and the Ministry of Justice hand out the finances so small that it is impossible to organize the outgoing court sessions. Negligence of their service duties by these ministries is inadmissible and demands immediate reaction, because it leads to mass violations of human rights and inflicts damage on state interests».

(«Zerkalo nedeli», No. 3, 26 January –1 February 2002)

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967 persons are kept now in the Odessa preliminary prison because their affairs were not considered in the proper time. 36 out of them are staying be-

hind the bars without any verdict more than 1.5 years, Anatoliy Luniachenko, the head of the Odessa appeal court, informed the agency «Reporter».

(«Vechnie vesti», No. 19, 8 February 2002)

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More than 4.5 thousand of criminal case remained still not considered by courts of the Kharkov oblast. The majority of the accused are waiting for their verdicts in preliminary prisons. Many do it for longer than six months, the conditions of the upkeep are frequently inhumane.

The average load for one judge has achieved now 90 cases per month. There are some judges, whose load is thrice more. Often the same judge is dealing with a criminal, administrative and civil cases. The number of convict waiting in preliminary prison grew during the last year from 1700 to 2500. And these are no guarantees that every of them are guilty in the incriminated offences.

(«*Vecherniy Kharkov*», No. 29, 14 March 2002)

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Nina Karpacheva, the ombudsperson:

«More than 70% of preliminary prisons population are recorded by courts. It is not infrequent when a court issued a guilty verdict to cover the term of the illegal keeping under custody and thus to justify the incompetence of investigation or themselves. The new kind of arrest (popularly called the «shock» one) introduced by the new Criminal Code became a convenient tool for this. This arrest permits to incarcerate an adult up to six months and a minor – from 15 to 45 days. The verdicts are fitted to these terms to release the accused after the trial. Certainly, human rights are seriously violated in this trick. This kind of convicts have no right for meetings with relatives and food parcels, while even murderers have such a right. This legal norm must be reconsidered».

The ombudsperson intends to achieve the legal reconsideration of the procedure of incarcerating citizens for violating administrative regime. The existing practice, to put one behind the bars for he did not register in the proper time in a militia precinct, is cruel. The problem of the permission for convicts to be present at the funeral of their relatives must be positively solved too.

Now about the nourishment. The price of the nourishment of one convict in a USSR preliminary prison is 5 hryvnas per day. Vladimir Levochkin, the head of the State penitentiary department informed: «We have 21 hospitals, 10 of them are for TB cases, whose number now is 12.6 thousand».

(«*Kievskie vedomosti*», 18 March 2002)

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The protocols of the district voting commission read that at election station No. 60 of election district No. 108, which is situated in the town of Vak-

hrushchevo of the Lugansk oblast (the Vakhrushchevo reformatory colony), all 2053 convict voted for the governmental bloc «For united Ukraine!» out of 14 candidates in the majority district all the voters unanimously supported Kirichenko, a representative of the same bloc.

In the Lugansk preliminary prison all 1756 incarcerated voted for the governmental bloc (see protocol of election station No. 6 of district No. 105).

(«Tovarishch», No. 15, April 2002)

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An election station No. 84 of district No. 108 (the town Perevalsk of the Lugansk oblast) 1063 voters were registered. 1063 of them voted for the bloc «For united Ukraine!»

An election station No. 117 (Komissariivka, the Perevalsk district of the Lugansk oblast) 1030 voters got their bulletins. 9 of the bulletins were spoiled, others were for the bloc «For united Ukraine!»

An election station No. 67 of district No. 145 in Poltava almost all 1357 voters (except those 14, who spoiled their bulletins) voted for Litvin and his team.

The Lugansk oblast voters are convicts of two penitentiaries of the Ministry of Interior, in Poltava they are the population of the preliminary prison.

(«Silski visti», No. 43, 9 April 2002)

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In Bukovina the bloc «For united Ukraine!» got the greatest number of votes from the electors from the Chernivtsi preliminary prison and Sokirniian-ska penitentiary establishment RCH-328/67. In the former the bloc obtained 259 votes. In the latter 910 voters out of 1184 chose the governmental bloc.

(«Rukh», No. 13, April 2002)

Where there is a will, there is a way

Viktor Beloded, Yuzhnoukrainsk

The problem of crime in the Ukrainian society is so acute that not a single Ukrainian politician, including the President, could avoid it in their statements. To tell the truth, these speeches did not affect the solution of the problem, and the growing statistics of the offenses seem to ignore the good intentions of the political leaders. Most mass media also publish the materials on this topic on their columns. The sensational details, striking the imagination of common citizens, raise unhealthy interest and increase the run. These materials seem to be the continuation of TV thrillers and serials on the local background. All this makes the reader to get accustomed to the idea that this is natural and inevitable. The absence of the negative assessments of crime and violence willy-nilly

creates a certain charm of crime. «Aspect», an edition of the Donetsk «Memorial», elucidates the questions of crime from some other, constructive facet. The materials of the magazine focus the attention on the consequences – penitentiary system. They also mention the corresponding international legal norms. But really the phenomenon of crime is much more profound and diverse.

The magazine published a very important, in my opinion, confession of V. Levochkin, the head of the Ukrainian penitentiary directorate. In spite of the efforts made for reforming our penitentiary system, «there are no grounds to speak about the decrease of the number of the condemned and incarcerated», he said. His Russian colleagues have similar difficulties. «Solving the problem of the upkeep of the suspected and accused exceeds the economic resources of the state», wrote A. Yatsentiuk, the head of the department of the preliminary prisons and prison of the penitentiary directorate of the Ministry of Justice of Russia. As one can see, it is a serious matter: either crime will exhaust and bankrupt the state or the state will have to apply tremendous efforts to force crime to decrease. The penitentiary system tries to solve their problems both through the construction of new penitentiaries and through diminishing the number of the incarcerated by amnesties, reducing prison terms, introducing alternative punishments. In my opinion all these measures are nothing but drops in the flooding sea of crime. When their terms finish, the same jailbirds return to the society. They know the price of the words about fair court and punishment, they are enriched by the experience and they did not come better. If there even were some positive shift in the statistics, I would rather relate it to the higher qualification of criminals.

In many materials published in the bulletin the problems common to human rights protection and penitentiary personnel are considered, their joint wish to influence the situation, to diminish the growth of crime, which inevitable leads to overcrowding of penitentiaries and, as a result, the violation of elementary rights of convicts. Unfortunately, the problems involved do not cover all the phenomena. In my opinion, the joint efforts concern only the iceberg top, in many respects this resembles the fight with the consequences, not the roots. And the roots of crime in our society are rather deep. The crime cannot be explained through a primitive class approach, the unemployment is not an exhausting cause. The crime cannot be also explained on the social and economic levels, as the authorities try to do. The reason of such explanations is the thesis «existence determines consciousness», the logical continuation of the erroneous opinion about the animal origin of man. This approach generates rather erroneous conclusions, unable to explain, for example, the growth of crime in the well-to-do countries.

I am convinced that the sources of this phenomenon should be sought in the absence of important moral qualities of citizens. The criminal outlook is

especially typical to a person bred in the Soviet times. Historically this education began with the glorification of «ex's» (expropriations) – that is the restoration of justice by transporting the property from the exploiters to the exploited. According to any laws, these actions were always classified as robbery. The methods of governing the country were, for many years, also similar to the relations inside a criminal group based upon the personal devotion, authority, closeness and concealing the ends. The leaders were criminals. It is sufficient to tell that the successful party career of Stalin began with the robbery of a Tiflis bank.

The masses tried to imitate their leaders. Workers and peasants lived for a long time according to the principle: all belongs to kolkhozes, so all belongs to us. And although the kolkhozes disappeared together with socialism, the outlook remained the same. But the main reason of the crime was the 70-year-long propaganda, which led to the mass atheism. Any appeals to lead a moral life are annihilated by the confirmation that all will be finished with the physical death, that is why, people thought, one must take from life as much as possible. After the inevitable crash of the communist ideas our compatriots still cannot understand why on earth should they be honest. The Constitution does not answer this question either, when declaring some international norms. Laws, in their turn, fix the permissible actions of citizens. So, most of the citizens find mitigating reasons to violate laws «quite a bit». Then a little more... Professional criminals have their own justificatory philosophy. As a result the both categories of citizens get behind the bars.

F. Dostoevskiy convincingly showed how any crime begins. At first sinful thoughts appear in one's head, and then, following the mental rut, an actual crime is committed. A crime is the easiest to prevent on the first stage. Yet, the state remains aloof to the prophylactics of crimes, and later is obliged to pay for the upkeep of convicts. The government ignores the crime propaganda in mass media, distributing video and audio production about violence, pornography, occultism and criminal life at all. Have we a right to address the state as a subject of this process? I think no. The power as it has been formed, is not responsible for permanent policy. There are any groups within state agencies that conduct their permanent policy. It is clear that these efforts are directed for catching fragments of the state budget.

In the course of their activities law-enforcers and penitentiaries have accumulated a lot of difficult problems, for example during investigation.

The independence of courts generates the impunity of corrupted judges. Another topic is the attitude of a convict to the verdict. Even if one assumes that the investigation and the court procedure were irreproachable, all the same the some problems having a decisive role for the criminal remain unknown to the court. That is why the criminal always regards the verdict as unjust.

All these circumstances are in fact solvable through the clean consciousness of investigators, judges, prosecutors, advocates and penitentiary officers. Yet, the state does not set the task of breeding such functionaries. The problem of reforming criminals and the prophylactics of crimes is not also set.

The positive experience of the work of church with the incarcerated is not mentioned even by human rights protectors. The penitentiary administration does not want the additional problems, they have enough as it is. In order to cooperate with church and NGOs the penitentiary administration needs some organizational efforts and good will to act for the sake of the entire society. This is not the only reason, but this difficulty and many others may be overcome if there is a will. So the problem is not in the absence of the way out, but in the unwillingness to search it. We have to make a choice: either to have what we have or to follow the high Biblical standard, when God interferes.

<http://www.yu.wildpark.net/~ded/Publizist/Aspekt>

«Prava Ludyny», June, 2002

4.3. UPKEEP CONDITIONS IN PENITENTIARIES

After previous publications:

About transportation of women-convicts from Krivoy Rog to Dnepropetrovsk and changes in their state – see *«Kievskie vedomosti», No. 36, 6 September 2001.*

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As the results of the checks organized by ombudsperson Nina Karpacheva testify, the nourishment of convicts, who stay in preliminary prisons of different sorts leaves must to be desired. In the course of the checks the ombudsperson noticed that the detained are not fed at all in the cells in district precincts, and in detention blocks the detained get two meals per day instead of three. The starvation of the detained, N. Karpacheva believes, is a serious violation of human rights, inflicts serious damage to their health and may be a tool of pressure on the suspected from law-enforcing organs.

Ms. Karpacheva turned to Prime-Minister Anatoliy Kinakh and Parliament speaker Ivan Pliushch with the request to include into the budget-2002 expenditures for the feeding of temporarily detained as a protected expenditure item guaranteeing its 100% provision.

(«Segodnia», No. 220, 2 October 2001)

* * *

The prosecutor's office and the department for fighting organized crime of the town of Gorlovka are jointly investigating the fact of service forgery

(Article 366-1 of the Criminal Code) in Zhdanovskaya reformatory colony No. 3. According the preliminary data, from March to August of this year 12 convicts of this colony were released being dead. Several days after a convict died, he was allegedly released after Article 408 of the Criminal-Procedural Code (releasing because of a grave disease). This article, as a rule, is applied to those, who are doomed. More often such incarcerated are released to die at home. Several from those twelve, in particular, Marinenko, Gerasimov and Mishchuk petitioned to release them before their death, and were brought to court as falling under Article 408. But the judge was implacable. One morning he refused to release one of the convicts, and at noon the latter died, after which he was released by the judge according the mentioned article. Zhdanovskaya colony is a colony- hospital, to which the incarcerated with TB are directed from other penitentiaries. On 1 December 1620 persons stayed there. This year, according to the data of the Donetsk oblast prosecutor's office, 53 convicts died in the colony. During the same period of the last year the number of deaths was even more – 60 persons. Owing to the current situation, the order was issued to the Donetsk oblast directorate of the State penitentiary department, according to which two heads of special departments and two heads of medical departments were dismissed from the law-enforcing organs. Some other officials were also punished.

(«2000», No. 50, 14-20 December 2001)

* * *

From a letter:

«I am a convict of Alchevsk colony No. 13. We beg you to render us help When the wardens were Napolskikh and later Yangolenko, we lived not very well, but tolerably. Now the warden is Kizimov, and all what happens in the colony may not be described. In the working zone they switched off heating. The frosts were hard, we had to build fires in the buildings. All this time they extracted money from us for electric energy. As to the nourishment, it is uneatable. We, certainly, may not pretend to order food in a restaurant, but the administration even does not permit to get food from relatives. Our colony is for TB cases.

I do not dare to sign the letter – I want to survive».

(«Pravda Ukrainy», No.26, 19 February 2002)

* * *

This colony is situated in the settlement of Makoshino of the Chernigiv oblast. Now colony No. 91 of strengthened regime is intended for the condemned law-enforcers: militiamen, USSR officers, judges, prosecutors. The colony was created in 1992. Now 373 convict stay there. More then a half of them got 13-15 years, mainly for murders. What concerns their ranks – the su-

periors are a lieutenant colonel and a head of oblast militia directorate. The main contingent is law-rank: sergeants and servicemen of patrol squads, that is the category of law-enforcers, whose wages are the smallest. The same statistics is true also for prosecutor's offices and security services. One of the colony heads told: «Now we do not catch big fish, those, who have much money, do not get to us. Frequently the terms are served by those, who were honestly fighting crime, but were «two zealous. Mainly the articles, by which law-enforcers are punished, are bribes and misuse of power. About half of incarcerated militiamen are road militia officers. Only 70-80% of the incarcerated work, usually not full-time. The state gives for nourishment 2 hryvnas per day. The main additional source of income is the car repair shop, where professionals work. Another source of income is invalids of the 1st and 2nd groups, the number of whom is about five hundred. According to the instruction, their pensions are not given to them personally, but are put in the local bank. According to the wish of the convict that money is used for buying food. The penitentiary takes the money as a loan. How much is returned is unknown. More than a hundred of the invalids died last and this year. On 24 August 2000 the order was issued to amnesty 200 convict. The colony had no money even for their transport expenses. The incarcerated invalids helped the colony with a considerable sum – 140 thousand UAH.

(«Frant», Kupiansk-Uzlovoy, the Kharkov oblast, No. 6, 31 January 2002)

A letter to ombudsperson Nina Karpacheva

To: ombudsperson Nina Karpacheva

From: political prisoner Oleg Boyko staying in preliminary prison No. 13, cell 127

I turn to you and ask you to stand up in defense of rights, human dignity and democratic in our State. Quite accidentally I became an eyewitness of the conditions under which the detained are treated in the emergency ward. Having lost my senses in the courtroom because of the hunger strike with political demands, I was quickly transported to the emergency ward. There I was placed in a room on the second story. I shared the room with four other men. They were transported from different militia precincts, so their guilt was not proved since the investigation had not begun yet. All of them us were handcuffed to beds and had to lie all the time. The handcuffs were not removed even when food was brought. It is difficult to describe the impression, when you carry a chunk of bread to your mouth pulling simultaneously the chain. When a patient is taken to a doctor, they put a pair of handcuffs on the wrists, and by the other pair they pool one as a dog on a leash. Ms. Karpacheva, I turn to you as to a woman: imagine how much more it was difficult for two girls that stayed in the adjoined room, also handcuffed to beds. The guard is much more numerous, vigilant and diligent than FBI agents guarding witnesses. According to my evaluation, we, five convicts, were guarded by four shifts, and

the number of guards was about 50. (Imagine such a scene: barred windows, two guards are walking in the room with clubs and tear-gas sprays, the third guard is standing outside the bars armed with a pistol, another door, behind which there Kalashnikovs and the senior guard, who has the keys from our handcuffs; one more armored door separates us from the common hospital.) I want to say that I have no pretensions to the guards, since their attitude to us was humane. I understand that such decisions as to lead us on a chain are made at the top, and the guards only obey the orders. Medical personnel also treated us well. During the medical examination it appeared that I had a sore spine. Before it I had repeatedly to the prosecutor's office complaining that in spring I was beaten by the special militia squad «Berkut». Every time I got the answer that the expertise did not find any traces of beating. Once I was examined, 10 weeks after the beating, and the doctors said that pains in the back were caused by an uncomfortable coach in the USSR.

I shall describe you several examples illustrating that we live in a police state. The doctor, who operated a 63-year-old pensioner, demanded to permit his patient to get unchained and walk and got a refusal. The doctor was afraid to make his name known. Beside the doctors, who treat the patients a man often appears, from his doctor's smock one can see legs of his uniform (he appeared to be O. A. Zhelekovskiy). He took part in a round, and after that all the handcuffs were made tighter. The operated pensioner was (even before removing surgical stitches) transported to a district precinct, from where he was returned in one day, but in a very grave condition.

What kind of a country are we building, when everything is controlled and administered by militia? Kravchenko has been exchanged for Smirnov, but the repressive machine continues to grow, and, if it ever works at the top power, it would be impossible to guarantee that any citizen will not get into the meat grinder. You must understand that the data given by Potebenko (in Ukraine the level of uncovering crimes in 97%, whereas in the USA – only 67%) mean that it is achieved in such a manner: a suspect is beaten until he/she will confess in committing 5-6 crimes.

During my stay in the hospital my wife paid for tomography, since doctors said that my spine needed examination. They did not show me the medical conclusions, the militia passed the conclusion to prison doctor. He answered my questions that, since the medical case history is written in Ukrainian, he could not translate it to me. This was obviously an attempt to protect their colleagues from «Berkut».

It also rumors that during the inspection from your organization the handcuffs were temporary taken off from the sick and hidden.

I ask to assess my letter as a collective application from all the detained, who were staying in the prison hospital together with me. Are not we worth of a better life?

<http://maidan.org.ua/n/mai/1013000786>

«Prava Ludyny», February, 2002

4.4. DATA ON SICKNESS RATE IN PENITENTIARIES

Roman Romanov, Sevastopol :

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 necessary medical aid to all TB cases in custody in Sevastopol, and to provide them the upkeep conditions consistent with the Minimal standard rules of upkeep of prisoners adopted by the UNO.

«Prava Ludyny», June, 2001

* * *

Now TB is the most frequent disease in penitentiaries. According to the data of the State penitentiary department, there are about 16 thousand TB cases among those, who stay under custody, only about 12 thousand out of them are on the treatment in prison hospitals. Oleksandr Ptashinski, a deputy head of the department, told that about five thousand TB cases with the opened from of the disease get to preliminary prisons, and their treatment is impossible until the final verdict is declared. The investigation may last from six to eight months, while the disease is becoming more virulent because of absence of medical aid and bad upkeep conditions. This disease is catching during contacts.

Only 64% of the amnestied managed to «reach» to the dispensaries, and in some regions this figure is less than 50%.

(«Den», No.179, 4 October 2001)

* * *

In accordance with the preliminary data, 2037 persons sick of TB were released during the last amnesty.

(«Fakty», No. 178, 4 October 2001)

* * *

Since the beginning of the year 2886 convicts have been released from penitentiaries by Article 408 of the Civil-Procedural Code, that is out of compassion to their incurable diseases. Oleksandr Ptashinski, a deputy head of the department, informed that in the Donetsk oblast 2367 prisoners were released owing to the state of their health.

(«2000», No. 50, 14-20 December 2001)

* * *

The great stimuli for the development of TB in Ukraine last year were: high rate of this disease in penitentiaries and the distribution of it at large through numerous amnestied.

The main social problem in the country is now the «prison» or «amnesty» TB. Penitentiary organs do not care to give in time the lists of sick amnestied to medical establishments. In the Crimea (excluding Sevastopol) only 99 about of 138 amnestied with dangerous forms of TB were registered. Although the patients secreting bacteria may not be released until stopping the secreting, they are released, and not all of them are examined by doctors.

The number of the TB cases released after expiration of their terms is even more the number of the amnestied. 45 persons with active forms of TB came to Evpatoria from penitentiaries during last year only, although only five of were amnestied.

Now the proportion of those, who came to TB dispensaries from penitentiaries reaches 50% and sometimes even 80-90%.

(«Den», No. 18, 30 January 2002)

4.5. MORTALITY RATE IN PENITENTIARIES

1296 convict have died in penitentiary since the beginning of the year. Oleksandr Ptashinski, a deputy head of the department, informed that that 39 prisoners died in the Donetsk oblast. The penitentiary department strictly investigates every death of a convict.

(«2000», No. 50, 14-20 December 2001)

4.6. DESCRIPTION OF TORMENTS

According to the order of the State penitentiary department of 18 January 2000, the convicts, who have a quite number of diseases, must not be kept under custody. Unfortunately, the reality differs from the law.

Konstantin Kosmach got to the Vinnitsa preliminary prison in December 1999. Judge of the oblast court Evhen Nagorniak, who was in charge Kos-

mach's case, told that, since Kosmach had a bouquet of diseases, the resolution was issued to suspend the investigation until the complete cure of the accused. But the accused cannot be cured in the preliminary prison, since the conditions are unsuitable. Kosmach's son wrote that his several requests addressed to the USS investigation officer about the change of the preventive measure for his father were not satisfied. The requests to summon a cardiologist to the convict were rejected during six months. Nine months after Kosmach's arrest the main doctor of the preliminary prison informed the court that his patient needed an urgent operation. «The court ruled to conduct the session without my presence», Kosmach told. Five months later the main doctor of the Strizhevskia prison hospital examined Kosmach. His conclusion was that the state of health of the incarcerated had significantly improved. Judge Nagorniak received the same reference. All this optimistic conclusions were made on the background of the developing diseases and exacerbation of inguinal hernia.

The relatives of the convicts of the Vinnitsa preliminary prison tell that «recently an epidemic of hepatitis broke out in the prison. The administration did not take any measures for treatment or at least temporary isolation of the sick. Usually about eight persons stay in one cell. All of them use the same crockery, eat the same food. Certainly, all the diets are the same».

Oleksandr Tiurkin, a lawyer of the Vinnitsa committee for human rights protection:

«Such treatment of the convicts may be accessed only as a brutal violation of Articles 49 and 63 of the Constitution. In Kosmach's case one more article was violated – Article 150 of the Civil-Procedural Code, which clearly states that, which choosing the preventive measure, the law-enforcers must take into account the individual features of the accused, the age and state of health».

«Kosmach's case is a mild from of what happens in our preliminary prisons», believes Vasyl Zhornokley, the head of the Vinnitsa committee for human rights protection.

(«Nova alternativa», No. 3-4, 31 January – 14 February 2002)

* * *

The General Prosecutor's office opened the criminal case about procuring by cops the «voluntary» confession from a Kharkov dweller Roman Butenko. They wanted him to confess to the murder of a young girl. R. Butenko spent behind the bars more than five years until he was found completely non-guilty by court.

The story of a Sevastopol inhabitant Vladislav Siniatin is similar to the previous one, but in the process of the struggle with the prosecutor's machine he lost even more health. This story began in 1995. On 16 November V. Sini-

atin, a senior student of the Nakhimov Navy School, was detained on the suspicion of raping a girl. «Could I know while entering the prosecutor's office that I will return home three years later and as an invalid?», tells Vladislav. The investigation lasted a year. Nobody touched me with a finger in the prosecutor's office. I was beaten only in the preliminary prison by the local personnel. Sometimes they took from my cell at night to torment». A year after the arrest, in October 1996, the trial began in the Court Martial of the Sevastopol garrison. Vladislav was condemned to seven years of incarceration in a colony of strengthened regime. In the end of 1996 Siniatin, who was directed to colony No. 314/38 (the Lugansk oblast), caught jaundice together with other prisoners because of the low quality of drinking water. He began to cough still in the Simferopol preliminary prison. Mother, who came to visit her son, learned from the prison doctors that he had TB from long ago, his left lung was damaged and his liver was injured after hepatitis. Before the diagnosis was established, he was driven to heavy physical work, then he was transferred to the TB barrack. In 1997 V. Siniatin was transported to another colony, where the TB hospital was – colony No. 314/13 (Alchevsk, the Lugansk oblast).

Vladislav tells:

«My documents were directed to Vitaliy Boyko, the chairman of the Supreme Court. It was enough to cast a glance at them to understand that my case was falsified. All proofs of the accusation consisted of testimony of the victim. The Supreme Court cancelled the verdict of the court of the first instance and sent the case for additional investigation. Yet, the preventive measure was not changed in spite of the state of my health».

Vladislav's mother supposes: «Our family encountered with a special form of racket. The essence racket is that racketeers choose successful young guys and, jointly with prosecutor's offices, accuse them in order to earn money. They understand that many parents would willingly sell the last shirt in order to avoid their son of such a dirty stop in his biography».

While the Supreme Court considered the case, Siniatin's health deteriorated more and more in the prison hospital. In order to conduct investigation actions Vladislav was transported to Simferopol in a special carriage for convicts. The travel lasted for a month. Vladislav, sick with the open form of TB, was put with healthy people in the overcrowded carriage. How many people caught the disease on the way is unknown.

«When at last we came to Simferopol, I could not walk. Blood flowed from my throat. In the preliminary prison cell several persons died of TB in my presence. They died at night and lay unmoved in the cell until morning. The doctor's commission turned to the judge with the request to change my preventive measure. But the judge refused without explanations».

Perhaps, they were afraid in the prosecutor's office that convict Siniatin would die under their observation, so they did change the preventive measure at last: on 24 July 1998 Siniatin was released with the promise not to leave his place and was put to the Simferopol military hospital. In the Simferopol lung-surgery center doctors removed two thirds of his left lung, after which he got the second group of invalidity. On 14 December 2001 the Court Martial of the Feodosia found Vladislav Siniatin not guilty. «This was the first similar case in my three-years practice», told Siniatin's advocate Leonid Dmitriev, «As soon as the appeal is finished, a criminal case must be opened against the three investigators, who participated in falsifying the testimony (this falsification was proved by court). Besides, we shall immediately start the case on recompensing moral and material damage. But it is difficult to win the military machine. The appeal court is still postponed». And someone sends detractive letters to Vladislav's school and his wife's office.

«It seems to me that the prosecutor's office started full-time hunt for me», complains Vladislav, «hope that after the verdict comes into effect everything will be OK...»

(«Fakty», No. 91, 23 May 2002)

5. INFORMATION ON TORTURE AND CRUEL TREATMENT IN THE ARMY

5.1. SOME GENERAL PROBLEMS

Volodymir Bondarev, a judge of the military chamber of the Supreme Court of Ukraine, major-general of justice:

«To study the relations contradicting articles of war (this is in official euphemism for «*dedovshchina*» – Translator's note) we, for the first time in Ukraine, conducted the detailed statistical analysis. To this end, we used the data about the size, level, structure and dynamics of various indicators of this type of crimes for all years of the development of the Armed Forces. There are enough grounds to state that the situation with *dedovshchina* still remains dangerous. These crimes are dominating and they determine the level of violence in the Armed Forces. The negative dynamics of *dedovshchina* is typical, the proportion of those, who were condemned for *dedovshchina* resulting in grave consequences is steadily growing. It is true, although that the official statistics does not reflect the real scale of the *dedovshchina*, firstly, because of the imperfection of the statistics as such, and, secondly, because the phenomenon has an extremely high latency. The concealed cases of *dedovshchina* became practically normal, so they do not shock anybody.

The army reflects completely and exactly the cultural, social, economic and other features of the society. Yet, one can observe specific traits of violence typical for military collectives. These traits are determined by the specifics of servicemen's life, of their activities, social position and roles. For this, along with studying the statistical data, one must investigate not only the nature of *dedovshchina*, but also its determination. The obtained results testify: *dedovshchina* is, upon the whole, situational, while its structure suffers qualitative negative changes, in particular, in emotional and motivational base. Expansion of the motives of criminal behavior in the form of the wish to satisfy the need in aggressive violence becomes the especially dangerous symptom. The most important element of a big part of violent crimes committed by servicemen is especial unmotivated cruelty. The peculiar ground for these crimes under modern conditions is separation in social layers in military collectives.

The one-time campaigns and measures taken after crimes connected with dedovshchina do not give positive results. On the contrary, the essence of the phenomenon of dedovshchina is that the structure of this kind of crime is more complicated than the system of measures used for fighting these crimes. The sophisticated character of the criminal behavior connected with dedovshchina calls for the necessity to use the equally sophisticated system of fighting it. This must be purposeful, systematic activity in the sphere of social rule and control, which consist in the active influence of the society on the determinants of such crimes itself and the persons, who commit or may commit such crimes, with the aim of the triumph of law and the values protected by it».

(«Narodna armiya», No. 240, 26 December 2001)

27 deserters are being searched in Kharkov oblast

Sergey Bobok, Kharkov

Most of the deserters left their units long ago, before 1995. Recently a serviceman we detained, who left his unit and hid from the authorities for more than three years. He was blamed for physical violence toward his comrade at arms. He was tried and deserted on the day when his verdict had to be declared. As members of the militia prosecutor's office said, Ruslan Markokhay was spoiled by his power: several months before his demobilization he was appointed a section commander and he misused his power. During two months Ruslan regularly tortured his six subordinates. The commanders learned about the situation and started investigation. After the desertion Markokhay was being searched for 3.5 years. As it became known later, he hid at his relatives' place in the Donetsk oblast. He lived on accidental earnings and later found a job of a miner. Now the mine manager will be responsible for it. As to the culprit, he is waiting for the verdict in the preliminary prison. The investigating officer anticipates that Markokhay will get not less than 5 years of incarceration. Yet the final word shall be pronounced by the court martial – there were different precedents. The workers of the military prosecutor's office recollect a deserter, who was hiding for 7 years, then was caught, tried and condemned to one year of penal battalion. The investigating officers are satisfied with the decline of the number of deserters by one quarter.

«Prava Ludyny», July, 2001

Quality of the autumn recruiting campaign of 2000

The Kharkov Union of soldiers' mothers permanently monitors the quality of recruits from Kharkov and the Kharkov oblast. The monitoring of the autumn recruiting campaign of 2000 was conducted with the support of International fund «Vidrodjennia» and National Institute of democracy.

We sent questionnaires to all military units, to which recruits from Kharkov 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

Recruiting campaign	Number of distributed questionnaires	Number of answers	Percentage of answers
1999	44	10	22,73%
Spring 2000	77	35	45,45%
Autumn 2000	70	34	48,57%

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

1346 persons are accounted for		
Among them:	Number	Percentage
Got into hospitals or medical units within the first month of service	115	8,5
Have chronic diseases, which got more acute in the beginning of the service	27	2,01
Have deviations in behavior, have criminal records, used narcotic drugs	68	5,05
Have suicidal inclinations	75	5,57
Recruited with the violation of laws (have the right for postponement by Article 17 of the Law «On military duty»)	–	–
Concealed chronic diseases from medical commission to get to the army	10	0,74
Declared their unwillingness to serve	3	0,22
Attempts of desertion	1	0,04
Suicidal attempts	1	0,074
Are essentially underweight	51	3,78

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 notable-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 rejects is about 18%.

Let us compare these data with those of spring-2000.

Got into hospitals or medical units within the first month of service

Table 3

Campaign	Number	Percentage
Spring-2000	119	11,73
Autumn-2000	115	8,5
Dynamics	-4	-3,23

Have chronic diseases, which got more acute in the beginning of the service

Table 4

Campaign	Number	Percentage
Spring-2000	40	3,94
Autumn-2000	27	2,01
Dynamics	-13	-1,93

Have deviations in behavior, have criminal records, used narcotic drugs

Table 5

Campaign	Number	Percentage
Spring-2000	16	1,58
Autumn-2000	68	5,05
Dynamics	+52	+3,47

Have suicidal inclinations

Table 6

Campaign	Number	Percentage
Spring-2000	56	5,52
Autumn-2000	75	5,57
Dynamics	+19	+0,05

Concealed chronic diseases from medical commission to get to the army

Table 7

Campaign	Number	Percentage
Spring-2000	25	2,46
Autumn-2000	10	0,74
Dynamics	-15	-1,72

Declared their unwillingness to serve

Table 8

Campaign	Number	Percentage
Spring-2000	5	0,49
Autumn-2000	3	0,22
Dynamics	-2	-0,27

Attempts of desertion

Table 9

Campaign	Number	Percentage
Spring-2000	3	0,29
Autumn-2000	1	0,074
Dynamics	-2	-0,216

Suicidal attempts

Table 10

Campaign	Number	Percentage
Spring-2000	1	0,1
Autumn-2000	1	0,074
Dynamics	0	-0,026

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 Kharkov oblast administration and Kharkov 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 is unreasonable to send notable-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 Kharkov, 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 or 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 Kharkovskiy 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 14a «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 physiological 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 psychically 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 Kharkov and the Kharkov oblast were sent to our unit. Upon the whole, we are satisfied with them. Most of them are able to fulfil fully their service duties; moral and physical conditions of recruits-Kharkovites 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 drugs 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 Kharkov recruits could pass the test of their moral and physical features and can fulfil 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 Kharkov 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 Kharkov and the Kharkov 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 fulfil fully 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, Kharkov oblast recruiting commission and Kharkov city council was accepted by the corresponding authorities with comprehension. The Kharkov 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 Kharkov for the service in the armed forces of Ukraine» and approved the decision about the improvement of such training. Kharkov city educational department distributed in schools the brochures for future recruits and their parents. The brochure was compiled by the Kharkov Union of soldiers' mothers. Representatives of our NGO were included into recruiting commissions with the right to advise. All this confirms that the Kharkov 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 Kharkov 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

Who will defend the rights of the parents of perished servicemen?

Inna Sukhorukova, Kharkov:

On 20 January 2002 the conference of the union of the parents of servicemen perished in peaceful time (that is a section of the Kharkov oblast union of soldiers' mothers) was held in Kharkov. This section is headed by L. Bykova, a co-chairman of the union of soldiers' mothers. Our bulletin more than once wrote about how the state solves problems of the people, who lost their most precious treasure – their children. To be exact, we wrote about how the state appeared unable to solve these problems during the last decade. In 2001 the union of soldiers' mothers distributed questionnaires among the perished servicemen's parents to learn the number of such families, the circumstances of the servicemen's death, availability and type of certificates given to the parents. Most of the parents are left to the mercy of fate... Misery privi-

leges and additions to pensions obtained by a few parents cannot recompense in the least degree the moral and material damage inflicted by the death of their sons. Besides, these tiny payments were not given in cash, but transferred to the accounts of the state bank, which got bankrupt, so the parents cannot get a kopeck.

Ukraine does not have a law, which would stipulate social protection of the parents, whose children perished in the army in the peaceful time. The operating laws are so vague in this respect that the parents are divided into two categories: those, whose children perished during the execution of their service duties – they have some privileges, and those, whose children perished or died of diseases or committed suicides in the army – they have no privileges at all. So the parents live, having lost their dearest sons, unneeded and unassisted by the state.

That is why so many people gathered at the mentioned conference. The conference hall was given by the Kharkov oblast branch of Rukh of Ukraine.

83 persons took part in the conference, who undersigned a letter to the President and the Supreme Rada. This letter contains demands to initiate the legislation aimed at the development and adoption of the special law concerning the parents of servicemen perished in the peaceful time (by the way, there is such a law in Russia).

The participants also turned to the city council and the oblast state administration with the demand to regulate the reception of the privileges by the parents, since the state officials in different districts of the city and oblast interpret the operating laws differently.

«Prava Ludyny», January, 2002

5.2. DEDOVSHCHINA IN FACTS

Military prosecutor's office is investigating cases of dedovshchina

Five criminal cases on dedovshchina were started this June. One of them concerns three servicemen of the military-constructive faculty of Kharkov technical university of construction and architecture, the military prosecutor's office of the Kharkov 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.

News agency «STATUS QUO»

«Prava Ludyny», June, 2001

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Leonid Gavriiliuk, a deputy of the military prosecutor of the Kharkov garrison, informed that seven servicemen have been recently condemned for devovshchina in the Kharkov garrison.

(«Panorama», Kharkov, No. 37, 14 September 2001)

* * *

Oleksiy Protsenko, the head of the State indoctrination directorate of the Ministry of Defense of Ukraine, told that from 1995 to 2002 the number of the crimes connected with dedovshchina diminished by 89%.

(«*Molod Ukrainy*», No. 71, 11 June 2002)

* * *

Military unit No. 0222 is a presidential regiment and is an elite unit. Mykhaylo Shkarbatovskiy and Oleksandr Otryshko were honored to be directed to this unit.

Half a year later Mykhaylo repented of his agreement to serve in Kyiv.

On 24 December 2000 the guys took the oath. On 17 February Mykhaylo's parents came to visit him. His mother, Lubov Shkarbatovska, recollects: «He slept badly that night: shivered and woke up. Then he confessed to us, that he was beaten, but after all it was possible to carry on».

«Every month our son got the wages – 19 hryvnas, but the money was immediately taken away by sergeants. My son was beaten regularly».

Oleksandr Otryshko left his unit. He said to his mother that he would not return to his unit alive. He had two stab wounds on his head. His mother came to the unit, promised not to raise scandal and Oleksandr was transferred to Zaporozhye.

In his explanatory note Mykhaylo Shkarbatovskiy wrote that after the escape of Oleksandr Otryshko, on 28 March, senior lieutenant Shangin and lieutenant Buriak took Mykhaylo from orderly and led him to the room for cleaning firearms. They demanded to give information about Otryshko. Then they together started beating Mykhaylo. They beat him and kicked him on his chest, head and arms. «For several minutes I lost my senses. When I regained consciousness, they said that they would return». On 18 April Mykhaylo was smoking in WC (where smoking was permitted). Sergeant Tkach strongly hit him with the butt of tommy-gun on the chest. On 20 April private Kulish hit Mykhaylo several times with the mop handle on his buttocks, since Mykhaylo slowly washed up being on duty in the kitchen. Later private Kulish beta him with a stick on the head, after which Mykhaylo became sick, he felt giddy. On 20 April Mykhaylo's parents received a letter from him, where he asked for help, and on 23 April they came to Kyiv. The three of them came to a forensic expertise to register beatings. Mykhaylo did not want to return to his unit, he was afraid that they would beat him again. Next day the parents were not admitted to regiment commander Didenko. And they went to the committee of soldiers' mothers. The same day Mykhaylo underwent the ultrasound examination, which showed a haematoma of his left kidney. The serviceman com-

plained that he had headache, was psychically depressed, he was sleepy all the time. The parents took him to the Institute of neurosurgery, then to the Institute of nephrology. All the conclusions of the civil doctor were brought to the regiment commander. Didenko did not permit to hospitalize Mykhaylo. «It would be a criminal case, and I do not want a criminal case. I shall give him a leave».

Private Shkarbatovskiy got a month leave. The parents insisted on his hospitalization. Now military doctors are preparing documents for the dismissal of Shkarbatovskiy from the army. And the prosecutor's office of the Kyiv military garrison has opened the criminal case against sergeants and officers of the brave regiment. The officers deny the facts of dedovshchina in their unit. The militia prosecutor's office conducts a check of these facts. Commander of military unit No. 0222 colonel Didenko said: «One must be careful in starting criminal cases. I object to condemn our boys, who are 19-20 years old».

The prosecutor's office of the Kyiv military garrison considers «the case of private Shkarbatovskiy». The guilt of Mykhaylos tormentors is not proved yet, but they were already punished on the service level. Colonel Viktor Didenko, the commander of military unit No. 0222, lieutenant Shangin, the second-in-command in charge of indoctrination, and senior lieutenant Zavadskiy, the commander of the 1st company, were dismissed from their posts.

(«Golos Ukrainy», No. 144, 14 August 2001)

* * *

An awful situation developed in one of the units of the Simferopol garrison. It is established that the commandment of the unit (united artillery stores) practically disregarded their duties. The only way to influence subordinates was punishments for hard drinking, skipping the service and ignoring service duties. The indoctrination work was practically absent. The result was the development and spreading of dedovshchina. Taking money from younger soldiers for so-called «current needs» on the side of older servicemen and commandment became a usual practice. Young soldiers were made to purchase silver chains for those, who were demobilizing; this practice was severed. Young soldiers were permitted to wash their uniforms only at night. The disobedience to this rule was punished physically and morally. One of the privates told that he would cut his vein, and the commanders and the head of medical part, instead of investigating the situation, managed to give him a reputation of a drug addict.

A result of the check was the order for the dismissal of lieutenant colonel V. Naguliak, the unit commander, lieutenant O. Zaporozhan, the second-in-command in charge of indoctrination, and some other officers.

(«Narodna armiya», No. 172, 19 September 2001)

* * *

In November 1999 Sergey Morozov, Vitaliy Kobzar, Sergey Novik and Dmitry Sytnikov were mobilized to the army and directed to one of the units of the Chuguev garrison (the Kharkov oblast).

On 30 October 2000 a young soldier, Artem by name, arrived at the same unit (No. A-4104). He got a bunk in the same barrack, where the four mentioned servicemen lived. From the very first days Morozov, Kobzar and Novik did all they could to demonstrate their superiority over the greenhorn.

Tormenting and beating started from the beginning of November 2000. The «deds» tormented not only Artem. Another young soldier, Dmitry, also suffered from them. Their service-mate private Belous reported about these torments at the preliminary investigation. But at the trial, being perhaps under duress of other «deds» and the parents of the accused, Belous told that during the investigation he framed up Morozov, Kobzar and Novik, and that he was made to give his false evidence under the pressure of the military prosecutor's officers. His testimony was thoroughly investigated, but no proofs were found, and his preliminary evidence was regarded as truthful and was used as a base for the verdict. The court martial decided that reforming the accused in *dedovshchina* might be reached in a penal unit. Morozov, Kobzar and Novik were condemned to serve in a penal unit during a year, Sytnikov got 6 months with the postponement of the verdict and paying fine of 680 UAH in favor of the state. Artem and Dmitry were transferred to another unit. Giving false evidence by private Belous was considered by the garrison court martial on 10 September 2001. 20-year-old Poltava dweller Sergey Belous was found guilty in giving false evidence and was condemned to 3 months of incarceration in the garrison guardhouse.

(«Panorama», Kharkov, No. 38, 21 September 2001)

* * *

The court martial of the Donetsk garrison began to consider the case on *dedovshchina* in one of motorized infantry units of the Atermovsk district. The facts of *dedovshchina* were found during a prosecutor's check. A so-called «ded» first took the wages from a young soldier, and then demanded 40 hryvnas more warning that if in two weeks the soldier did not find the money, he would be beaten. And he did so, when the young soldier was at the permission box.

«Commanders of the unit knew about this accident, but not take any measures», informed Rodion Pugach, the military prosecutor of the Donetsk garrison, «Meanwhile the young soldier was permanently molested by the older serviceman». The «ded», who remained unpunished, started to intimidate

witnesses. A criminal case was opened. Fortunately, the victim got to serious body injuries.

Recently the court martial of the Donetsk garrison has condemned to 5 years of incarceration the sergeant, who made a young soldier an invalid. The sergeant demanded from his victim to bring him toilet paper to the lavatory. When the soldier refused, the sergeant kicked him in the midriff, and so hard that the guy was hospitalized with the rupture of the spleen and later was dismissed from the army.

This year the prosecutor's office of the Donetsk garrison opened 4 criminal case on similar facts; all the accused were condemned.

(«Fakty», No. 181, 9 October 2001)

* * *

On 14 November of the current year the judges collegium of the court martial of the Donetsk garrison issued the verdict on the case of taking a hostage, which occurred in Kyiv penal unit in August 2000. One of the accused, Aleksandr Stankevich, got 8 years of incarceration, and another, Mikhail Nevzorov – 6 years and 3 months.

A. Stankevich's advocate Igor Godetskiy intends to protest against the verdict in appeal court martial of the Central region. He insists that Stankevich must be released.

Colonel of justice Nikolay Turkot, who supports the state accusation, said that «in its verdict the court pointed out the high social danger of the crime. Nowadays all countries pay a special attention to the problem of terrorism, one of the forms of terrorism being taking hostages. This example shows that the fight against terrorism in Ukraine is effective and uncompromising».

We want to remind that when A. Stankevich sent a letter to a newspaper, the prosecutor's office was investigating two criminal cases on dedovshchina. Guards of the penal unit got under investigation and were condemned. The then commander of the penal unit had to retire from his post. Stankevich's advocate based the defense focusing on the facts of violence against his client.

(«Kievskie vedomosti», 21 November 2001)

* * *

In one of the units of frontier guards situated in Reni (the Odessa oblast), a 24-year-old lieutenant shoot from his pistol and gravely wounded a 19-year-old sergeant. Vasiliy B., a dwelled of the Kyiv oblast, was taken to a hospital, where he died of the wound. Military prosecutor of the Bolgrad district is now investigating all the details of this accident. The criminal case is opened on the

careless use of firearms. The lieutenant was detained. The version of a pre-meditated murder is being checked.

(«Fakty», No. 229, 14 December 2001)

* * *

The editorial board of the magazine «Shliakh peremogi» received an open letter addressed to the President of Ukraine, to General Prosecutor's office of Ukraine and the prosecutor's office of the Dnepropetrovsk garrison. The letter is signed by Mykola Marusiak, an inhabitant of the village of Iltsy of the Verkhovynskiy district of the Ivano-Frankivsk oblast. It is already for one year and a half that he cannot obtain the answer, why his son, who served in military unit No. 3021 in Dnepropetrovsk, perished.

From the letter of M. Marusiak:

«...I insisted and insist: he was beaten by his colleagues at arms. But the investigation is prevented by the so-called «esprit de corps» The investigation in the regiment told me: «It would not be better for you, if somebody is punished» Well, I will not be relieved, but, perhaps, others will be awaited by a better lot».

(«Shliakh peremogi», issues 22, 23-29 May 2002)

«Prava Ludyny», July, 2002

«Prava Ludyny», August, 2002

6. NON-GOVERNMENT ORGANIZATIONS AGAINST TORTURE

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 ombudsperson 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 zones» 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.

Liga OnLine

«Prava Ludyny», June, 2001

Against torture

Evhen Zakharov, the Kharkov Group for human rights protection

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 time 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 com-

plaints 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 «Zeleny 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.

In addition, the KG prepared and published the second book «Against torture. International mechanisms on prevention of torture and cruel treatment». 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) and materials of discussion on this report in the UN Committee, commentaries to the third periodic report of the Amnesty International and the Ukrainian NGOs, fourth periodic report of Ukraine.

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. The seminar is financed by the Directorate on Human Rights of the Council of Europe and the National Endowment for Democracy (USA). On 19 October the KG held a press-conference in the information press-center IREX ProMedia devoted to torture and cruel treatment.

Four foreigners (two represented the Council of Europe, two represented the embassies of USA and French) and 88 citizens of Ukraine took part at the seminar. 46 out of 88 Ukrainian participants are lawyers, including 13 juridical higher school teachers (from the National Juridical Academy, from the Advocate Institute at Kyiv University, from the Ukrainian Security Service Academy, from the National University of «Kyiv-Mohyla Academy», from the University of Interior and others), 3 workers of the Academy Law Sciences and 7 advocates-practitioners. 18 participants are state officials (7 from the Ministry of Justice, 3 from the Security Service of Ukraine, 2 from the Supreme Rada and ombudsperson's office, one representative was sent by each of the following organizations: the President's administration, the Ministry of Interior, the Ministry of Defense, the General Prosecutor office, the Main State tax inspection). 37 out of 88 Ukrainian participants are human rights activists. 16 participants are journalists, 3 from them represented juridical editions: magazines «Law of Ukraine» and «Practice of the European Court on human

rights. Decisions. Commentaries» as well as the newspaper «The Juridical Herald of Ukraine».

Each participant was given the above-mentioned information materials.

The seminar commenced with the report of Tatiana Termacic, who pointed out that the considered topic was very urgent, and that the efforts of non-governmental organizations, which collect, publish and analyze the data on applying torture in Ukraine, was very important. The report of Oleksandr Pavlichenko, the head of the Informational Office of the Council of Europe in Ukraine, was devoted to the co-operation of Ukraine with the Council of Europe. Various aspects of the activities of the European Committee for preventing torture, inhumane or degrading treatment or punishment were elucidated in the reports by Mark Kelly and Vladimir Evintov, the vice-president of the Committee, a Doctor of Law. Mark Kelly made a stress that Ukraine did not agree to publish neither of the three reports of the Committee about its visits to Ukraine in 1998, 1999 and 2000. This position of Ukraine, Mr. Kelly remarked, harms her reputation in Europe and confirms the negative attitude to Ukraine as to a country, which does not want to advance in the sphere of human rights. In his other report Mark Kelly reviewed the practices of the European Court of human rights according to Article 3 of the European Convention on protecting human rights and basic freedoms that protects from torture and cruel treatment. The reports of Roman Romanov, the executive head of the Sevastopol human rights protecting group, and of Yuri Zaytsev, the editor-in-chief of the magazine «Practices of the European Court of human rights. Decisions. Comments» (published in Russian), were devoted to the court practices according to Article 5 of the Convention. Oleksandr Tolochko, an assistant professor of the National juridical academy, a candidate of law, told about the directions of the improvement of criminal-procedural laws. He made a stress on the fact that the right of a detained to turn for medical aid is not even mentioned in the laws, and the law drafts being prepared do not contain it either. Yevgeniy Zakharov made the brief survey of the UNO Convention against torture and its fulfillment in Ukraine.

The participants of the seminar expressed solidarity that the problem of applying torture requires a serious attention both of the state organs and of the society, that changes in laws are needed, in particular, introduction of the independent organ for checking complaints about torture, the legislative prohibition of interrogating a detained without an advocate, the prohibition to use in court the confessions made under duress, etc.

The seminar became a stimulus for discussing the problems in the Ukrainian mass media. The two all-Ukrainian TV channels – «1+1» and «New channel» – informed the public about the seminar and showed the interview with Yevgeniy Zakharov, a co-chairman of the Kharkiv Group for human rights protection. Large articles were published in central and local editions

(«Den», «Kievskie vedomosti», «Yuridichny visnyk Ukrainy», «Kryviy Rig vecherniy», «Tsurma i volia» – Donetsk, «Sobytie» – Kharkov; all publications are appended).

«Prava Ludyny», November, 2001

PL publishes the summary of the report of the Kharkov Group (KG) for human rights protection and the unedited version of the document «Conclusions and Recommendations of the UNO Committee against Torture», which was approved by the Committee on 21 November. The KG report and the materials of the discussion of the fourth periodical report of Ukraine held in Geneva on 14-15 November we plan to publish fully in the second edition of the book «Against torture. International instruments of preventing torture and cruel treatment».

Cruel torture is a routine in Ukraine

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. 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, especially «Mirror weekly» and «Kievskie Vedomosti».

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.

Unfortunately, alleged offenders, prohibited by the Article 28 of the Ukrainian Constitution, 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 systematic and large-scale:

- cruel, inhuman treatment of suspects under inquiry and preliminary investigation;
- conditions in detention blocks, preliminary investigation cells and some prisons;
- so called «dedovshchina» in the army, i.e. torturing of younger soldiers by older servicemen.

Kharkiv Group for Human Rights Protection prepared the commentary to the 4th periodic report and appendix to the report (this is a rather thick book containing information in Russian and Ukrainian)

In the appendix to the report (this is a rather thick book containing review of messages on torture and cruel treatment 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.

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. 575 such complaints were handed to the Kharkov oblast militia directorate in 2000, 50 of them were completely confirmed, 102 were confirmed partly, 76 militiamen were brought to disciplinary responsibility, 3 persons were condemned for misuse of power.

The problem of overcrowded preliminary prisons and penitentiaries of strong regime remains very acute, though new preliminary prisons are built and new cells are introduced. 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. 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. Yet, for the time being the repressive mode of the criminal-legal policy remains unchanged as a whole. That is the reason why the proportion of verdicts of «not guilty» steady equals 0.33-0.35% all the recent years. As before the proportion of people imprisoned for three years and less staying in penitentiaries is about 30% of the total number of the incarcerated. Other reason of cruel treatment of convicts is catastrophically insufficient, especially 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. The average cost of the upkeep of one imprisoned was in 1998 – 70 UAH per month, in 1999 – 78, in 2000 – 77 and in 2001 – 115. Yet, the existing objective reasons of the cruel conditions of the upkeep may not be recognized as an excuse in this situation.

Although penitentiaries became more open than before, the penitentiary system remains, upon the whole, closed. For example, it is rather difficult to communicate with convicts face to face. Besides, when one gets complaints about cruel treatment of convicts, it is difficult to understand the situation in reality. The requests addressed to the Penitentiary Department are usually fruitless: «facts are not confirmed» and the author of the complaint is punished in this or that way. It is necessary to establish special commissions for inspecting penitentiaries, consisting along with officers of the Department, prosecutor's office and ombudsperson's office also members of non-governmental human rights protecting organizations.

The problem of cruel treatment of younger soldiers by older ones, so called «dedovshchina», remains acute. Yet, according to our data dedovshchina becomes weaker. Mass media also frequently wrote about the phenomenon. So, for example, according to Aleksey Protsenko, the head of the main directorate of indoctrination work of the Ministry of Defense, the number of crimes connected with dedovshchina has diminished by 69% from 1995 to 2000. In our opinion, the improvement of the situation is due, first of all, to the principal position of the Ministry of Defense, which thoroughly investigates all complaints, actively and benevolently co-operates with human rights protection organizations, 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 organizations may now visit military units, meet with soldiers and their commanders, conduct polls, etc. To put it briefly, the commandment of the Ministry of Defense 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.

Somehow, prosecutor's offices do not hurry to inform the public about their successes in the surveillance over the legality of the activities of law-enforcing organs. So, reacting to our request to the General Prosecutor's office about the number of militiamen, who were condemned by Articles 166 and 175 of the Criminal Code of Ukraine of 1960, we were politely sent to the Ministry of Justice. Most oblast prosecutor's offices did not answer our requests about the number of complaints against militia in 1998-2000 and the first half of 2001, the number of satisfied complaints and the number of militiamen, who were punished administratively. This certainly rudely violated the law «On information». Prosecutor's office of the Crimea and Sevastopol answered that this information must not be divulged, since it is classified as «For service use only». So the data about the legal violations committed by militia is a secret guarded by laws. Nonetheless, most oblast militia departments, unlike prosecutor's offices, answered these questions. All this creates an interest pattern, which is worth of a separate publication. Upon the whole, we get an impression that the new administration of the Ministry of Interior is willing to change to the better the shameful situation with torture. In particular, it is confirmed by the joint order of the Ministry of Interior and the Penitentiary Department about measures of controlling the legality. Yet, it needs control of an independent organ. It is obvious that nowadays prosecutor's offices fulfil these functions unsatisfactorily.

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

- to make more exact the definition of torture in the CC of Ukraine agreeing it to the definition given in Article 1 of the Convention against torture;

- 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 defense 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 Labor 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 familiarize law enforcement personnel and military officers with the provisions of the UN Convention against torture;

to publish the reports of the CPT on visits to Ukraine in 1998, 1999, 2000;

to ensure legal grounds for court and civic monitoring of the activities of law-enforcing organs.

CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE AGAINST TORTURE : UKRAINE.

21/11/2001.

CAT/C/XXVII/Concl.2. (Concluding Observations/Comments)

COMMITTEE AGAINST TORTURE

Twenty-seventh session

12 – 23 November 2001

UNEDITED VERSION

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, 491 and 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:

a) 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.

b) 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.

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

d) The abolition of the death penalty.

e) 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.

f) 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.

g) 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:

a) 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.

b) 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.

c) 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.

d) 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».

e) 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.

f) 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.

g) 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.

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

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

j) 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.

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

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

D. RECOMMENDATIONS

5. The Committee recommends that the State party:

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

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

g) 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.

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

i) 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.

j) 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.

k) 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.

l) 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.

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

n) 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.

- o) Establish a procedure for providing redress for victims of torture, including fair and adequate compensation.
- p) Continue the program against Tuberculosis in prisons and pre-trial detention centers.
- q) Widely disseminate the Committee's conclusions and recommendations, in all appropriate languages, in the country.

Ukraine got a bad mark in the UNO Human Rights Committee

Evhen Zakharov, Kharkov

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 unfortunately unaccustomed to make public their reports to international institutions about the fulfillment of her obligations in the sphere of human rights. We hope that these practices will be changed, first of all, that the Ukrainian society will demand the reports to be open.

CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE:

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

1. The Committee considered the fifth periodic report of Ukraine (**CCPR/C/UKR/99/5**) at its 1957th, 1958th and 1959th meetings (CCPR/C/SR.1957-1959), held on 15 and 16 October 2001. At its 1971st and 1972nd meetings (CCPR/C/SR.1971 and 1972), held on 24 and 25 October 2001, it adopted the following concluding observations.

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 immediately to 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 (*devozhchina*) 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 propiskasystem, 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 the 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.

«Prava Ludyny», November, 2001

The Council of Europe published the reports on the periodic visits of the European Committee of preventing torture and cruel treatment in 1998, 1999 and 2001

Evhen Zakharov

On 9 October the Council of Europe published in Strasbourg three reports on the periodic visits of the European Committee of preventing torture and cruel treatment in 1998, 1999 and 2001. These reports communicate that Ukrainian penitentiaries are overcrowded, beggarly and are dangerous concerning catching TB. The reports were published with the consent and com-

ments of Ukraine and are based on the conclusions of three missions of the committee in 1998, 1999 and 2000. During their visits to Ukrainian preliminary prisons, prisons, psychiatric hospitals and army guardhouses the European experts gathered a large number of evidence about bad upkeep conditions and treatment of the detained and condemned, in particular, about frequent beatings by law-enforcers. The reports contain the information that the prisoners are kicked, beaten with fists and clubs, they are suffocated with gas masks.

In the responses of the Ukrainian government, which also were published on 9 October, Ukraine took the obligation to stop such treatment of convicts. In particular, it is proposed to reform the procedure of hiring militiamen and to improve their professional skills. It is written in the reports that the above-mentioned measures were approved by the authorities in 2001. So, the upkeep conditions have been somewhat approved, penitentiary administration took some measures in order to stop the epidemic distribution of TB.

It is noteworthy that the Ukrainian government impeded the publication of the reports, which may be published only after the permission of the state. Yet, they were not the first, so, after some pressure on the side of the Council of Europe and Ukrainian human rights protecting organizations, the reports were at last published. They can be found in the Internet on the site of the Council of Europe (in Ukrainian they were placed by the address <http://www.-cpt.coe.int/en/states/ukr.htm>).

The experts of the Council of Europe plan to come to Ukraine with the fourth periodic visit in the end of the current year.

«Prava Ludyny», October, 2002

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Scientific edition

AGAINST TORTURE

**Review of messages on torture and cruel treatment in Ukraine
(June 2001 – December 2002)**

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