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IN THE UNITED NATIONS COMMITTEE AGAINST TORTURE

**ALTERNATIVE (SHADOW) REPORT IN RELATION TO THE SEVENTH PERIODIC
REPORT OF UKRAINE PURSUANT TO ARTICLE 19 OF THE UN CONVENTION
AGAINST TORTURE AND OTHER CRUEL INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT**

Submitted by
Protection for Prisoners of Ukraine &
European Prison Litigation Network

*For the consideration of the Committee in the framework of its 82nd Session
(7 Apr 2025 – 2 May 2025)*

10 March 2025

I. Introduction

1. The present alternative report is submitted to the UN Committee against Torture pursuant to Article 19 of the Convention, in the context of the seventh periodic review of Ukraine. It is intended to inform the Committee of the main issues relating to the state of the penitentiary system in Ukraine in the aspects falling under by the UNCAT. The report is submitted by two non-governmental organisations:
 - Protection for Prisoners of Ukraine (“PPU”) is a Ukrainian human rights NGO founded by former prisoners that investigates and documents cases of torture and ill-treatment of prisoners in Ukraine, provides counselling and legal assistance to torture victims and their families, and conducts monitoring visits to places of detention. The PPU also carries out remote monitoring of places of detention in the occupied territories of Ukraine and in Russia.
 - European Prison Litigation Network (“EPLN”) is an international NGO that brings together 30 national CSOs from 20 countries working to defend the rights of prisoners in Europe. EPLN has participatory status with the Council of Europe. EPLN has been working in Ukraine since 2017. In 2019-2021, EPLN co-led the “Coalition to Fight Violence in Prisons”, which aimed to bring together European civil society organisations involved in monitoring places of detention. In 2022, this collaboration has enabled the ongoing joint documentation of war crimes against the Ukrainian prison population.

II. Ukrainian prison system: general considerations and observations

(i) The elimination of torture: a key challenge in Ukraine’s break from its Soviet legacy

2. The Submitting Organisations would like to emphasise the exceptional importance of the recommendations which the Committee will make at the end of its visit, especially regarding the weight it will be accorded by the national authorities and other international organisations in their human rights monitoring work, in particular the EU.
3. On the one hand, the Ukrainian prison system is bearing the full brunt of the Russian aggression and its trail of crimes. In the temporary occupied territories (non-government-controlled areas), prisons are at the forefront of the terror regime imposed by the Russian forces, not only for the civilians thrown into jail as a result of the “filtration” process, but also for the convicted prisoners who, due to them not being evacuated timely, have found themselves under the Russian occupation. Prisons under the Ukrainian Government control are suffering from the massive constraints caused by the distribution of evacuated prisoners in facilities already suffering from

major problems of their own. In some places, prisons are under frequent shelling by Russian troops. The CAT's report must give an account of these crimes perpetrated by the aggressor.

4. On the other hand, the ongoing process of Ukraine's accession to the EU constitutes a unique window of opportunity to force the transformations indispensable to the elimination of systemic violations of the UN Convention against Torture persistent in the Ukrainian prison system.
5. Our organisations are fully aware of the major difficulties faced by the Ukrainian prison service as the result of the Russian aggression. They have taken it upon themselves to engage in humanitarian actions to alleviate this burden. However, the war cannot be a valid reason for postponing essential reforms. The hotbeds of torture and corruption that have become entrenched in certain parts of the prison system are veritable poisons to society. Although far removed from Ukraine in terms of its scale and systematic nature, the infamous example of Russia shows the extent to which the use of torture in prisons acclimatises the law enforcement agencies and the society to institutional violence. The colossal struggle currently mobilising the entire Ukrainian nation to fight for freedom and democracy cannot accept such a threat.

(ii) The recent political framework of prison reforms

6. In response to recurrent criticism from international organisations regarding structural failings in the Ukrainian prison system, the government adopted the Penitentiary System Reform Strategy (2022–2026) on December 16, 2022. This strategy outlines the government's approach to aligning the penitentiary system with the international human rights standards. This strategy is all about a missed opportunity. Firstly, it was drawn up without any real consultation with civil society, in other words it reflects the prison administration's vision of its own reform. Secondly, the European Union has imposed a technical exchange with the Ukrainian authorities within the framework of a Working Group of Ukraine's international partners on prison reform¹, so that the Strategy then being developed takes into account the requirements of international law. Ultimately, the government largely disregarded the recommendations issued in December 2021². As a result, the Concept of the Penitentiary System Reform until 2026 does not address any of the long-term concerns set out by the UN and CoE bodies, except for potentially leading to some progress in terms of material conditions of detention.
7. The process of accession to the EU changed drastically the situation, the problem of the systemic nature of torture having been raised by the Commission and having therefore acquired crucial

¹This working group was established on the initiative of the EU Delegation to Ukraine in autumn 2021. It included the representatives of the Council of Europe, the EU, EPLN, and, regarding aspects relating to probation, NORLAU.

² Either because they were allegedly too precise for a reform strategy, or because in the Government's view they were, on the contrary, too vague.

political importance.³ Over the past few weeks, Ukraine has been actively pursuing the development of three roadmaps as part of its accession to the European Union.⁴⁵

III. The role of Civil society Prison Reform

8. Civil society in Ukraine plays a crucial role in monitoring detention conditions and advocating for penal reform, much like its contributions to anti-corruption efforts and judicial reforms. Open public debate and independent oversight are essential for ensuring transparency and accountability within the penitentiary system. It should be noted that it has been the result of the hard work of civil society. In 2021, the international working group called on the government to maintain legal provisions allowing civil society to monitor cases of deliberate ill-treatment within the penitentiary system.
9. However, the possibility of visits involving the Parliament and civil society, which is the cornerstone of the system for combating ill-treatment in Ukraine, is regularly under threat of being challenged under the pretext of rationalizing the oversight of places of deprivation of liberty. The Ministry of Justice has announced on 1 November 2024 an initiative for the adoption of a text determining the list of persons who may visit prisons and remand centers for the purposes of surveillance and inspection.⁶ The revival of the bill 6 September 2021⁷, the purpose and effect of which would be to call into question the opportunities for prison visits by the MP's assistants, which in practice enabled the main NGOs active in the field of prisoners' rights to visit correctional institutions, s regularly discussed.
10. The CSOs that are directly targeted are the ones behind the uncovering of the biggest torture scandals in Ukrainian prisons in recent years, and which led to the ad hoc visit of the CPT to the country in 2020. Not only are these CSOs essential in the fight against impunity, but they are key

³ Ukraine 2023 Report, SWD(2023) 699 ;

⁴ According to the EU enlargement methodology, accession negotiations begin with the opening of Group 1 "Fundamentals" and are also closed last - Group 1 is decisive throughout the accession negotiation process. Approval of the roadmap is a condition for the opening of Cluster 1 "Fundamentals", which includes chapters 23 "Judiciary and fundamental rights" and 24 "Justice, freedom and security". Progress in the implementation of this roadmap will determine the dynamics of the negotiation process in Ukraine.

⁵ These are strategic documents that define the key reforms and transformations in the relevant areas and are to be developed as part of Ukraine's negotiation framework with the European Union. During the negotiation process, the EU will assess Ukraine's readiness for membership, particularly in terms of regulatory, institutional and administrative criteria.

⁶ See <https://minjust.gov.ua/m/01112024-povidomlennya-pro-provedennya-elektronnih-konsultatsiy-z-gromadskistyus-chodo-proektu-zakonu-ukraini-pro-vnesennya-zmin-do-deyakih-zakonodavchih-aktiv-ukraini-schodo-udoskonalennya-umov-trimannya-zasudjenih-ta-osib-vzyatih-pid-vartu>

⁷ Draft Law No. 5884 "On the creation of a double system of regular penitentiary inspections", http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=72675;

interlocutors for Parliament and international organizations in discussing the direction of reforms in the country.

IV. Widespread torture and ill-treatment in prisons

11. The most critical concern from the point of view of the submitting organisations lies in the persistent routine use of torture in a certain number of facilities, which are certainly not in the majority, far from it, but are places that have been identified for a very long time.
12. On 2 November 2021, Yuri Belousov, then head of the Department of the Office of the Prosecutor General responsible for monitoring the investigation of torture in law enforcement agencies, publicly warned about the dramatic situation of the use of torture in Ukrainian prisons:

“Unfortunately, the very phenomenon of torture, in my opinion, is so systemic, that we must change the behavior of thousands of adults who are accustomed to performing their duties in a certain way, who consider torture as a tool of their work, either to obtain information from a suspect or to “persuade” a person to behave in a particular way, as required by the prison administration of penitentiary institutions”.⁸
13. This assessment aligned with the Ukrainian Ombudsman’s findings that prison employees are actively working to suppress reports of torture and ill-treatment, a widespread issue within the penitentiary system.⁹
14. The scale of this problem prompted an ad hoc visit by the Council of Europe’s CPT to Ukraine in 2020,¹⁰ during which they received credible allegations of physical ill-treatment by staff and inmates. However, the Ukrainian authorities denied these claims in their response. This denial prompted a warning from human rights organisations, including the Kharkiv Human Rights Protection Group, the Ukrainian Helsinki Human Rights Union, and EPLN, stressing that the lack of political will reflected in the authorities’ response threatens the effectiveness of torture investigation reforms without significant capacity building.¹¹
15. While recognizing progress, particularly on the legislative front – in particular strengthening responsibility for acts of torture – the Commission noted that “torture and ill-treatment remain a

⁸ YouTube Channel “ГО Форпост”, “Конференція «Справедливість та здоров’я для жертв катувань в Україні» (Conference ‘Justice and health for victims of torture in Ukraine), 8 November 2021, available at: <https://www.youtube.com/watch?v=o0FQ4jX9BTs&t=2708s>.

⁹ Protection for Prisoners of Ukraine YouTube Channel, “Забезпечення безпеки осіб, що стали жертвами чи свідками катувань у пенітенціарних установах” (Ensuring the safety of victims and witnesses of torture in penitentiary institutions), 3 December 2021, available at: <https://www.youtube.com/watch?v=fyw7T3LV31w&t=308s>.

¹⁰ CPT/Inf (2020) 40, <https://rm.coe.int/1680a0b93c>

¹¹ Khpg.org, “Appeal of human rights organizations to the UN Special Rapporteur on Combating Torture regarding the shameful response of the Government of Ukraine to the CPT report on the results of the ad hoc visit in August 2020”, 15 May 2021, available at: <https://khpg.org/en/1608809087>.

systemic feature of Ukraine’s prison system. In addition, the main recommendations of the European Committee for the Prevention of Torture issued in its 2020 report have not been addressed. These covered among others poor material conditions of detention and the need to transfer medical care in prison to the general health system and should be addressed.”¹² A year later, the Commission stressed that “Despite legal improvements and some improvements in individual facilities and in investigations, torture and ill treatment remain an issue of concern in Ukraine’s prison and detention system”.¹³

16. Several causes for the entrenchment of torture practices have been identified for a very long time:

(i) The practice of “duty prisoners”

17. In Ukrainian prisons, it is common for the administration to assign certain groups of prisoners the responsibility of maintaining order. Many facilities are indeed characterised by the climate of fear created by the “duty prisoners” (“administration assistants”) – an informal privileged “caste” in the prison hierarchy, acting on behalf of the prison administration. Upon arrival at the colony, convicts are offered to join the “caste” of “duty prisoners”. If they refuse, they are subjected to inhuman treatment (degrading practices, including sexual violences), following which they are being assigned to the category of “downgraded” / “offended” (*ображені*).
18. Detainees bearing that status live separately from other inmates, use their own cutlery and eat separately from others. They find themselves in the most vulnerable position, being regularly abused, ill-treated, bullied, and forced to do menial chores. Sexual violence against “downgraded” is recorded on video to blackmail them. Prison administration is actively supporting the informal detainees’ stratification.
19. These groups, under the control of prison authorities, are often a major tool for deliberate ill-treatment, including torture, and contribute to the spread of prison subculture. The CoE’s CPT has consistently called for the abolition of this practice.¹⁴
20. The actions developed by the government at legislative level¹⁵ as well as the Prison Reform Strategy until 2026 addresses the prison subculture only from the perspective of the fight against criminal authorities, completely ignoring the active role played by the administration in the perpetuation of the phenomenon. The Government refused to consider the recommendations of

¹² Ukraine 2023 Report, SWD(2023) 699, p.40

¹³ Ukraine 2024 Report SWD(2024) 699

¹⁴ CPT/Inf (2020) 40, <https://rm.coe.int/1680a0b93c>, paras. 26 and 36; CPT/Inf (2024) 20, <https://rm.coe.int/1680af632a>, para. 47.

¹⁵ Article 255-1 of the Penal Code, resulting from Law [No. 671-IX of 04.06.2020](#)

the international working group to combat this system, including by strictly prohibiting the use of a caste of prisoners affiliated with the administration, which is in line with the long-standing demands of the CPT.

(ii.) Routine Use of Special-Purpose Units to Pressure Prisoners

21. The CoE's CPT has consistently highlighted the mistreatment of prisoners by special prison forces.¹⁶ In 2007, the UN Committee Against Torture urged the authorities to ensure that anti-terrorist units are not used within prisons to prevent inmate abuse and intimidation. Despite this, special forces are routinely deployed without any clear security necessity.¹⁷ This issue is compounded by the ongoing high incidence of abuse involving these forces. According to the National Preventive Mechanism (NPM), monitoring visits from 2018 to 2020 revealed continued illegal use of physical force and special measures against inmates.¹⁸
22. So far, the authorities have not revised the regulatory framework for special forces interventions, based on the CoE's CPT and civil society recommendations (including through limiting the use of special forces only to exceptional circumstances, with their interventions recorded and conducted in the presence of an independent authority, and prohibiting the prison staff from wearing balaclavas). The Reform Strategy refers to improving legal regulations for criminal punishment procedures and modernising technical security means, without addressing the core issues such as the use of special forces. The measures proposed in the Strategy appear to focus on enhancing control over prisoners rather than addressing arbitrary force and abuse within prisons.

(iii.) The use of Article 391 of the Penal Code as an instrument of reprisal

23. Article 391 of the Criminal Code is a remnant of the Soviet penal system.¹⁹ Notably, Russia has abolished this provision with the adoption of the 1996 Criminal Code.

¹⁶ CPT/Inf (2011) 29, para. 78, <http://rm.coe.int/doc/0900001680698430>; CPT/Inf (2013) 23, para. 13, <http://rm.coe.int/doc/090000168069844d>; CPT/Inf (2020) 40, paras. 19 and 34, <https://rm.coe.int/1680a0b93c>.

¹⁷ The frequency of the use of special security units is in itself alarming. According to the government, they were deployed 2,765 times between 2017 and 2019 (See, 1377th meeting (June 2020) (DH) - Action plan (22/04/2020) - Communication from Ukraine concerning the case of Karabet and Others v. Ukraine (application No. 38906/07) and Davydov and Others v. Ukraine (application No. 39081/02), available at: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)360E](https://hudoc.exec.coe.int/eng?i=DH-DD(2020)360E).

¹⁸ Information of the Ukrainian Parliament Commissioner for Human Rights, acting as a national preventive mechanism, on the implementation in Ukraine of the UN Convention against Torture, 2021, p. 12, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFINP%2FUKR%2F42469&Lang=en.

¹⁹ It is essentially a slightly modernised version of Article 183-3 from the 1960 edition of the Ukrainian SSR's Criminal Code (added in 1983). Currently, among post-Soviet countries, only Kazakhstan¹⁹, Ukraine and Belarus¹⁹ continue to enforce it.

24. Article 391 has been widely condemned by human rights bodies and organisations²⁰ for eroding “basic democratic principles and principles of criminal law” and for being used “in most cases as a tool of pressure and repression against recalcitrant convicts”.²¹
25. The CPT has “repeatedly recommended that Article 391 of the Criminal Code be abolished” and is concerned to note that this recommendation has remained unimplemented.²²
26. In December 2021, the Working Group of Ukraine's international partners, formulated as its ‘Expert recommendations for the Ministry of Justice on the draft Strategy for the penitentiary system reform until 2026 and its Action Plan’ the following:
- “In the framework of *Strategic Objective 2.4* (dynamic security), tabling a government draft law on the abolition of Article 391 of the Criminal Code of Ukraine should be included to react on the specific long-standing CPT recommendation and the vast consensus of relevant stakeholders.” (appendix X).
27. This requirement to include the abolition of article 391 in the Prison Reform Strategy up to 2026 was ‘not taken into account’ by the Ministry of Justice, on the grounds that ‘The respective draft law is under consideration of the Committee of Parliament of Ukraine (No. 2679)’. The explanatory memorandum to the draft law referred to by the Government is particularly telling:
- ‘Article 391 allows the management of Penal institution to unreasonably prosecute individual convicts solely on the basis of conflict with the administration of such institutions or to sentence a person to imprisonment for disciplinary or administrative offences which, in fact, should not be considered crimes (...):A condition for the application of Article 391 (...) to a convicted person is also the fact that he or she has received penalties in the past. Quite often, these penalties are imposed on a person for minor violations, for example, not making the bed in the ‘sample’ manner, or misbehaving with a representative of the administration, or changing the bed in the cell (...) The legal instruments provided by Article 391 (...) indicate not so much the desire of the administrations of the penitentiary institutions to ensure order in the institution, but rather their ability to exert pressure on individual convicts, including corruption, and to arbitrarily apply criminal repression measures. (...) the removal of Article 391 (...) will eliminate one of the largest corruption schemes in the penitentiary system, derived from the abuse of this article by penitentiary staff.
28. The explanatory memorandum emphasises the use of article 391 as an instrument of reprisal:
- “the [Register of Court Decisions has recorded at least 553 verdicts under Article 391 ` (...) since 2010 (as of 29.02.2016). One of the many examples of clear falsification of cases in which convicts are unjustifiably awarded extended sentences is the precedent

²⁰ https://zn.ua/LAW/raspishis_za_novyy_srok.html

²¹ Kharkiv Human Rights Group, ‘The practice of applying Article 391 of the Criminal Code of Ukraine proves that this article should be repealed’ (2022) < <https://khhpg.org/1608810965>> accessed 17 July 2024.

²² See ‘Report to the Ukrainian Government on the visit to Ukraine’ (19 June 2017) <<https://rm.coe.int/pdf/1680727930>> para. 46; See ‘Report to the Ukrainian Government on the visit to Ukraine’ (6 September 2018) <<https://rm.coe.int/16808d2c2a>> para. 103.

of Volodymyr Bordun (...). In 2011, Bordun publicly reported torture and ill-treatment with the participation of the leadership of the 25th colony. In 2012, the Kharkiv Human Rights Group appealed to the management of the SPS of Ukraine with a request not to transfer convict Bordun to colony 25, where he had conflicting relations with the management of the institution, stressing the real threat to his life and health. Nevertheless, Bordun was still taken to colony No. 25, where, 75 days before the end of his 15-year sentence, he was given three more years by court order (...)"

29. To initiate proceedings against a prisoner, the administration only needs to impose a series of disciplinary sanctions, which are nearly impossible for convicts to appeal. Often, these charges are fabricated and serve only to meet the formal requirements for initiating criminal proceedings under Article 391. Administrations frequently initiate criminal proceedings under Article 391 against convicts for various reasons, most commonly targeting prisoners in conflict situations with the authorities. Common reasons cited include refusal to comply with vague demands from the administration, the absence of a badge, the uttering of obscenities, an improperly made bed, being unshaven, wearing an improper uniform, and the storage of a charger or mobile phone, among others, to be elements of the crime under Article 391. Furthermore, no regulatory legal act contains an exhaustive list of misdemeanours for which certain types of disciplinary sanctions may be applied. This gives the administration a very wide margin for abuse in imposing sanctions on convicts, which then form the basis of Article 391 charges.

(iii) Strengthening the fight against impunity for torture

30. The fight against impunity for torture requires significant reinforcement to address deeply entrenched abuses within the penitentiary system. A key obstacle in this regard is the insufficient political will to combat impunity, which has stalled essential reforms. The establishment of the State Bureau of Investigation (SBI, tasked with investigating crimes committed, *inter alia*, by law enforcement officials) and a specialised unit within the Office of the Attorney General, despite certain progress, has so far failed to produce meaningful results.
31. In its 2023 report²³, the European Commission stated the following:

‘cooperation between the State Bureau of Investigation, prosecuting authorities and prison authorities remains weak, and the ill treatment investigation mechanism during the pre-trial and prison sentence stage suffers from a lack of efficiency. There are still limited operational and human resources capacities and limited operational independence of the State Bureau of Investigation to investigate ill treatment allegations, despite the establishment of a dedicated department in 2019. The ineffective investigation into

²³ Ukraine 2023 Report SWD(2023) 699 final, p.40

allegations of torture and cases of obstruction of justice **are rooted among others in a general culture of mutual protection of law enforcement officers within the criminal justice system.**”

“As to statistics on cases of ill treatment or torture, 30 criminal proceedings with allegations of torture and 990 with allegations of abuse of power by a law enforcement officer were registered in 2022; 11 and 94 people respectively were notified of suspicion, and 6 and 58 criminal proceedings respectively were forwarded to the court. At the same time, the Office of the Prosecutor General reports that 484 criminal proceedings with direct allegations of torture were initiated in 2018-2022, with 60 people found guilty, but only 15 receiving a prison sentence. This highlights how criminal courts do not follow through on the seriousness of the practice of torture and thereby contribute to an atmosphere of impunity enjoyed by law enforcement and prison staff. A permanent body needs to be established that involves civil society organisations and the Human Rights Commissioner to consistently monitor and follow up on alleged torture in the prison system”

32. According to the response of the Government of Ukraine to the CPT report in 2020,²⁴ SBI completed 83 cases under Articles 127 and 365 CC, in 2021 - 108 cases, in 2022 - 79 cases, in 2023 - 73 cases, by August 2024 - 31 cases. At the same time, according to official the response from prison medical services²⁵, there were 3,762 recorded bodily injuries in penitentiary institutions in 2020, 3,782 in 2021, 3,000 in 2022, 4,321 in 2023, and 7357 in 2024. These figures clearly indicate that investigations into violence in places of detention are barely being conducted.
33. The European Commissions stressed in its 2024 Ukraine Report that:
- “Corruption among authorities remains widely spread, with several high-ranking officials removed from office due to corruption cases. Ukraine should introduce transparent and merit-based recruitment and selection procedures for managerial positions in central and regional offices of the NP and the SBI, with meaningful involvement of independent experts, and strong disciplinary and anti-corruption frameworks tailored to the local context, addressing actual corruption risks.”²⁶
34. On its side, the NPM has noted that Ukraine has not ensured full compliance with the Istanbul Protocol, which sets standards for gathering evidence in torture cases. Its provisions are only partially applied in practice by public authorities.²⁷ The wider implementation of the Istanbul Protocol was also recommended by the UN Special Rapporteur on Torture, following her September 2023 visit to Ukraine.²⁸

²⁴ <https://rm.coe.int/response-of-the-ukrainian-goverment-to-the-report-of-the-cpt-on-its-vi/1680b2ae3b>, pp. 12-13

²⁵ response dated January 25, 2025 to the request sent by PPU on January 23, 2025

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²⁷ Information of the Ukrainian Parliament Commissioner for Human Rights, acting as a national preventive mechanism, on the implementation in Ukraine of the UN Convention against Torture, 2021, p. 10, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FINP%2FUKR%2F42469&Lang=en.

²⁸ A/HRC/55/52/Add.1, para. 109.

(iv) Healthcare in the Penitentiary System: Urgent Need for Reform

35. The transfer of prison healthcare services to the Ministry of Health has been consistently emphasised by the CoE CPT and the Council of Europe’s Committee of Ministers. However, Ukraine’s Reform Strategy fails to make a firm commitment in this regard, offering only vague statements such as the “gradual integration of penitentiary healthcare into a single medical space.”
36. The gravity of the situation of the prisoners’ access to healthcare is such that in January 2020, the Prosecutor General warned the Prime Minister in very alarmist terms: *“the process of the planned transfer of the functions of medical care ns for prisoners [to the Ministry of Health] has not yet been completed. (...) In recent times, the responsible central executive bodies have not been sufficiently active and have in fact slowed down the process, which has had an extremely negative impact on the state of respect for the constitutional rights of prisoners to medical care and has led to systematic violations of the legislation in this area.”*²⁹
37. In its 2024 report on Ukraine, the CPT³⁰ expressed regret over the continued lack of progress in shifting responsibility for prison healthcare to the Ministry of Health. While prison medical staff are administratively independent from the management of penitentiary facilities – answering instead to regional branches of the Healthcare Centre of the State Criminal Enforcement Service – the CPT stressed that true oversight by the Ministry of Health is essential to ensuring adequate healthcare and upholding the principle of equivalence with civilian medical services. The Ombudsperson’s office has specifically highlighted the absence of genuine independence for prison medical units, concluding that their autonomy exists largely on paper.³¹
38. The lack of independence of doctors and the weak link with the general health system result in serious shortcomings in the quality of care.
39. In addition, heads of the penitentiary institutions do not feel themselves bound by their responsibility for the prisoner’s health, notwithstanding that it continues to be placed on them according to law. Medical staff shift the responsibility to the prison administration for not providing the prisoners, in a case of a real necessity, with vehicles and/or escort for transporting from the place of detention to civilian healthcare institutions. As the Ombudsperson pointed out in a report specifically devoted to the issue of healthcare in prison³², “this is not about the

²⁹ Ukrinform.ua. Press release, 15/01/2020, <https://www.ukrinform.ua/amp/rubric-society/2856376-rabosapka-zaklikav-premera-vtrutitisa-u-situaciu-z-meddopomogou-vaznam.html>

³⁰ CPT/Inf (2024) 20, <https://rm.coe.int/1680af632a>, para. 75 et seq.

³¹ Special Report “The state of the observance of the right on healthcare and medical assistance in the pretrial detention facility and penitentiary facilities of the State Penitentiary Service of Ukraine, Office of the Ombudsman, 2018, <https://old.ombudsman.gov.ua/files/marina/PRISONHEALTH%20REPORT.pdf>

³² Special Report “The state of the observance of the right on healthcare and medical assistance in the pretrial detention facility and penitentiary facilities, Office of the Ombudsman, 2018, <https://old.ombudsman.gov.ua/files/marina/PRISONHEALTH%20REPORT.pdf>

“independence” of the head of the medical unit from the management of the [detention facility]” alleged independence of medical staff is a mere declaration”.

40. Many of the penitentiary hospitals in Ukraine concentrate exacerbated forms of the difficulties of Ukrainian prisons. The problem at stake is a multifaceted one, of considerable magnitude and complexity, which requires a strong political will, an open and transparent process involving all relevant stakeholders, with clearly stated objectives, for example on the model of a consensus conference that would involve civil society and international organisations in the discussion. Given the method used by the Ukrainian Government and the lack of clear direction, the scattered measures taken to improve care and strengthen the linkage of penitentiary health with civilian medicine are not likely to be successful.
41. In January 2020, the Prosecutor General expressed alarm at the 7% annual increase in deaths in custody.³³ The mortality rate of 77.5/10,000 inmates in places of detention in Ukraine is far worse than any other CoE states in this respect (Space 1, 2021)³⁴. This stark statistic underscores the urgent need for systemic reforms to ensure adequate healthcare, independent oversight, and compliance with international standards.
42. The CPT in 2024 Report³⁵ also raised concerns relating to the fact that while injuries among inmates are generally recorded, there is no systematic documentation of their causes or assessments of whether injuries are consistent with prisoners’ statements.

(v) Situation in prison facilities in the occupied territories of Ukraine³⁶

43. Because of the initial rapid advance of Russian armed forces into Ukraine in the immediate aftermath of the 24 February 2022 invasion 11 prisons in the South and East of Ukraine (Mykolaiv, Kherson, Zaporizhzhia and Donetsk regions) collectively holding 3103 prisoners were not evacuated, rendering the prison staff and prisoners under Russian occupation.
44. The humanitarian situation in places of detention in the NGCA rapidly deteriorated as regular supplies from Ukraine were interrupted, and no proper substitution was offered by the new Russian administrators overseeing these places. Consequently, due to the shortage of supplies and the use of some prisons as military bases, prisoners were first transferred to and concentrated in a few

³³ Press release, 15.01.2020, <https://www.ukrinform.ua/amp/rubric-society/2856376-rabosapka-zaklikav-premera-vtrutitisa-u-situaciu-z-meddopomogou-vaznam.html>

³⁴ Council of Europe, SPACE I – Prison Populations, Strasbourg, 15 December 2011, PC-CP (2021)11 p. 118, available at: https://wp.unil.ch/space/files/2024/01/SPACE-I_2021_FinalReport.pdf.

³⁵ CPT/Inf (2024) 20, <https://rm.coe.int/1680af632a>, para. 75 et seq.

³⁶ Full version of the report prepared by the submitting organisations, jointly with DIGNITY, Kharkiv Human Rights Protection Group, and Ukraine Without Torture is available at: <https://dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

prisons in Kherson region, and then transferred without their consent to other prisons in the NGCA or in Russia.³⁷

45. From the moment of gaining control of Ukrainian prisons, Russian servicemen committed human rights violations and international crimes in relation to the prisoners. These violations included wilful killings, torture, other ill-treatment, and threats thereof, forced labour, including for military purposes, forced imposition of Russian citizenship, and forced participation in the illegal referenda on Russia's annexation of the occupied Ukrainian territories. These and other violations are described in detail in the Report prepared by the Submitting Organisations jointly with DIGNITY, Kharkiv Human Rights Protection Group, and Ukraine Without Torture.³⁸
46. Prisoners remained in prisons in the NGCAs, even when they were located in areas of active hostilities or used as Russian military bases. Moreover, in some cases Russian artillery systems were placed next to places of detention in cynical attempts to use them, and in particular the protected status of the prisoners inside them, as de facto shields against attack. Consequently, some prisons were targeted and damaged by artillery strikes resulting in injuries and death of prison staff and prisoners.
47. The Submitting Organisations have collected and continue to collect information about hundreds of instances of torture and ill-treatment in places of detention in the NGCA of Ukraine. Review of these instances, including their details and context, reveal the Russian military and other officials used torture in places of detention as a tool to support and solidify their occupation regime.
48. The UN HRC International Commission of Inquiry on Ukraine has repeatedly reached similar conclusion as to the widespread and systematic use of torture by Russian authorities all over the occupied territories of Ukraine against civilians, in the context of detention, in particular in the occupied penal colonies and pre-trial detention centres, which has amounted to war crimes and corresponding human rights violations.³⁹
49. More specifically, the main purposes of the torture were to intimidate the civilian population, including detainees and, to ensure a more effective control of NGCA in general and of places of

³⁷ As regard the forcible transfer / deportation of prisoners from Kherson to Russia, see: OHCHR, Report on detention of civilians in the context of the armed attack by the Russian Federation against Ukraine, June 2023, para. 80, available at: <https://www.ohchr.org/sites/default/files/2023-06/2023-06-27-Ukraine-thematic-report-detention-ENG.pdf>; OHCHR, Report on the human rights situation in Ukraine, October 2023, paras. 95-97, available at: <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/23-10-04-OHCHR-36th-periodic-report-ukraine-en.pdf>; OSCE, Observations of the mission of experts established under the Moscow Mechanism. Report on Violations and abuses of International Humanitarian and Human Rights Law, War Crimes and Crimes against Humanity, related to the Arbitrary Deprivation of Liberty of Ukrainian Civilians by the Russian Federation, pp. 67-68, 19 April 2024, available at: <https://www.osce.org/files/f/documents/f/4/567367.pdf>.

³⁸ <https://dignity.dk/wp-content/uploads/42-Nine-circles-of-hell.pdf>.

³⁹ A/79/549, paras. 33 and 37, 40 and further, 72-78; A/HRC/52/62, para. 77; A/HRC/52/CRP.4, paras. 489 and 532; and A/HRC/55/66, paras. 58 and 79-80.

detention in particular. Other related purposes of torture were to obtain information and to punish civilians for their pro-Ukrainian patriotic position or for any ties with people holding such a position, especially with the Ukrainian armed forces.

50. In *official* places of detention, torture and other ill-treatment quickly became an instrument to extract confessions from prisoners, to intimidate and coerce them to obey the newly established Russian administration. Torture was used from the very moment of gaining control over prisons to install an atmosphere of fear and obedience among prisoners. For example, the first prisoners who were tortured were those who openly supported the prison subculture and were thus considered informal prisoner leaders. Prisoners were also subjected to torture, other ill-treatment, and threats thereof to coerce them to accept the Russian citizenship, to participate in the sham referenda staged by Russia in the occupied regions of Ukraine and to force them to work for various military purposes, such as digging trenches and producing fortifications.
51. The methods of torture included both physical and psychological torture, including beatings (such as kicks, punches and slaps), truncheon blows, mock executions, electric shocks, including through connecting wires to genitalia (amounting to sexual torture), positional torture, near-suffocation (gas mask, bag over head), inhumane detention conditions, deprivation of basic necessities (of space, light, fresh air, food, water, sleep, sanitary facilities, medication), shootings close to parts of the body, excessively tight handcuffing, subjecting to sounds of explosions and shootings, threats of execution and/or inflicting mental harm, including directed at close relatives, humiliation.
52. Importantly, this list is not exhaustive, but it reflects the most commonly used torture methods. The types of torture used, varied depending on the places where such severe pain and suffering was inflicted, on the availability of specific instruments, as well as on the personalities of the perpetrators.
53. Most of the 400 prisoners from prisons in the NGCAs interviewed by the submitting organisations and their partners, alleged that Russia's occupying authorities used torture and other ill-treatment in the occupied institutions. The testimonies came from 7 prisons in the NGCAs and they contain consistent and credible claims about torture and other ill-treatment in all of them. Given the ubiquity of torture and other ill-treatment in official and unofficial places of detention, its broad geographic spread, the commonality across occupied regions and places of detention in terms of methods and targeted victims, torture and other ill-treatment could be considered widespread and systematic.
54. Conditions in the official places of detention in the NGCA worsened rapidly after the occupation with regular supply of water, electricity and heating interrupted. Supply chains of food, medicine and other necessities were severed. In addition, many staff members of the places of detention –

sometimes up to 80 % – left their service for various reasons such as evacuation or unwillingness to collaborate with the occupying authorities. Ensuring decent detention conditions became impossible as the administrations ran out of essential human and material resources.

55. During the initial periods of the occupation, places of detention in the NGCA continued to rely on their stocks of food, medication, and other necessities. Later, it appeared that the Russian occupying forces did not plan for a continuity of these supplies. The administrations of places of detention had to operate relying on volunteers and other alternatives such as requesting other state institutions to share their stocks (e.g., medication from local hospitals).
56. Numerous cases of shelling and damage to the premises of places of detention were recorded both in the NGCA and in the GCA. The context of war thus directly impacted places of detention in all of Ukraine. The shelling resulted in the destruction of these places, damage to facility infrastructure, injuries and sometimes death of prison staff and prisoners as well as staff and residents of social institutions.
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