

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

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/UKR/CO/6)

UKRAINE

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental legal safeguards

9. Insufficient legal safeguards were brought to the attention of the State party in the past, as detained persons do not enjoy in practice all the fundamental legal safeguards from the very outset of deprivation of liberty, in particular in police detention and temporary holding centres, such as being informed of and understanding their rights, having access to an independent doctor and/or to a lawyer and having the right to inform a relative or person of their choice (arts. 2, 12, 13 and 16).

While noting that different measures are currently being taken, the Committee encourages the State party to take further effective measures to guarantee that all detained persons are afforded, by law and in practice, all the fundamental legal safeguards from the very outset of deprivation of liberty, in accordance with international standards, including:

(a) Ensuring that all persons deprived of their liberty are informed about their rights and provided with prompt access to a lawyer, in line with the legislation in force, and providing adequate financial resources for the effective functioning of the free legal aid system;

(b) Providing detained persons with access to a medical examination by an independent doctor and, if requested, a doctor of their own choice, and ensuring that all health-related tasks in police stations are performed by qualified medical personnel;

(c) Ensuring that detained persons are able to notify a member of their family or another appropriate person of their own choice.

The State party should also establish a single national register of detention that includes factual details about detention, including transfers, and ensure that it contains the exact date, time and place of detention

from the outset of deprivation of liberty and not from the time of writing of the protocol of detention.

Excessive use of force and killings

10. The Committee is concerned at allegations of excessive use of force by government special and riot police and other personnel, in connection with the popular protests throughout Ukraine, and in particular in the dispersal of protesters in Kyiv on 30 November 2013, as well as events in December 2013 and the reported killings of protesters between 19 and 21 January 2014 and 18 and 20 February 2014. The incidents in February 2014 were accompanied by so-called sniper killings by unknown assailants and other injuries of protesters, as well as of police and law enforcement officers. The Committee is also concerned at other crimes reportedly committed by law enforcement officers during the Maidan protests, including alleged beatings of medical staff seeking to attend the wounded. Events in Odessa (2 May 2014) and Mariupol (9 May 2014) have also evoked concern over the loss of life and allegations of excessive use of force. While investigations have been opened by a number of governmental and other bodies into those events, the Committee is concerned that the investigations have been slow, remain incomplete and have not resulted in accountability. According to reports by the United Nations Human Rights Monitoring Mission in Ukraine, there is “a lack of significant progress” in the Maidan investigations. Further, the Committee notes that the State party did not respond to requests for information on the likely conclusion of investigations regarding the fire in Odessa and the events in Mariupol (art. 2).

The State party should:

(a) Carry out and complete prompt, impartial, thorough and effective investigations into all allegations of the use of violence, including torture and ill-treatment, by law enforcement officials, and prosecute and punish those responsible, including for the incidents on the Maidan and in Odessa and Mariupol and thereby combat impunity;

(...)

Use of excessive force and grave violations of the Convention in the context of recent events in the east

11. The Committee is gravely concerned at reports concerning the use on the territory of the State party of torture, ill-treatment, enforced disappearance, deprivation of life and other serious violations of the Convention perpetrated in the context of the events that have taken place since November 2013. Many of those reports concern areas where the Government of Ukraine does not exercise effective control. The Committee is deeply concerned that the Human Rights Monitoring Mission in Ukraine has stated that the rule of law has been replaced by the rule of violence in the Donetsk and Lugansk regions, notably in places under the control of armed groups, often including the presence of foreign fighters, where a dramatic increase in casualties and the use of heavy weaponry and indiscriminate shelling were documented, along with a need for accountability for the crimes committed. The Committee is particularly alarmed by the finding in the report of the High

Commissioner for Human Rights that “armed groups continue to carry out abductions, physical and psychological torture, ill-treatment and other serious human rights violations,” resulting in “a reign of fear and intimidation by the armed groups” (see A/HRC/27/75) (arts. 2, 4, 12, 13, 14, 15 and 16).

The Committee recalls the absolute prohibition of torture contained in article 2, paragraph 2, of the Convention, stating that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”. It draws the attention of the State party to paragraph 5 of its general comment No. 2, in which it states that those “exceptional circumstances” include “any threat of terrorist acts or violent crime as well as armed conflict, international or non-international”. Accordingly, the State party should:

(a) Document and undertake prompt, thorough and impartial investigations into all acts of torture or other ill-treatment, including enforced disappearances and deprivation of life, committed on any territory under its jurisdiction; keep thorough documentation on the victims of inhuman treatment in areas not under governmental control, on the type of violations of the Convention against them and the damage inflicted, as well as the identity, if possible, of the alleged perpetrators, so that the State party can fully exercise its duties under the Convention when effective control is re-established and ensure that those found responsible are prosecuted and held accountable;

(...)

27. The Committee requests the State party to provide, by 28 November 2015, follow-up information in response to the Committee’s recommendations relating to: (a) fundamental legal safeguards; (b) investigations into all allegations of the use of force by law enforcement officials; and (c) the documenting and investigation of all acts of torture, ill-treatment, enforced disappearance and deprivation of life committed in the territory under its jurisdiction, as contained in paragraphs 9, 10 (a) and 11 (a) respectively of the present document.

(...)
