



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Concluding observations on the sixth periodic report of  
Ukraine**

Addendum

**Additional information received from Ukraine on follow-up  
to the concluding observations\***

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\* The present document is being issued without formal editing.



**Additional information on implementation paragraphs 9, 10(a), 11 (a) of the Concluding observations of the Committee against Torture on the Sixth periodic report of Ukraine on Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

**Information on implementation of paragraph 9**

1. Fundamental legal safeguards concerning observance of detainees rights are established in the Criminal Procedural Code of Ukraine (hereinafter — CPC).
2. The most essential is the principle of rule of law regulated by the Article 8 of CPC which constitutes: criminal proceedings shall be conducted in accordance with the principle of the rule of law, under which a human being, his/her rights and freedoms are the highest values which define content and areas of State activities. The principle of the rule of law in criminal proceedings shall be applied with due consideration of the practices of the European Court of Human Rights.
3. Article 208 of CPC prescribes the main duties of a competent official who performs an apprehension of a person. Thus, a competent official who apprehended the person, shall be required to immediately inform an apprehended person, in a language known to the latter, of the grounds for the apprehension and of the commission of what crime he/she is suspected, as well as of the right to involve a defense counsel, receive medical assistance, give explanations, testimonies or keep silence regarding the ground for suspicion against an apprehended person, inform promptly other persons of his/her apprehension and whereabouts in accordance with Article 213 of CPC, demand verification of the validity of apprehension, and of other procedural rights specified in CPC.
4. On apprehension of a person suspected of the commission of a crime, a report shall be drawn up in which, in addition to information specified in Article 104 of CPC, the following shall be indicated: place, date and exact time (hours and minutes) of apprehension under Article 209 of CPC; grounds for apprehension; results of personal search; petitions, statements or complaints of the apprehended person, if any; comprehensive list of procedural rights and duties of the apprehended person. The report on apprehension shall be signed by the person who draw it up, and by the apprehended person. A copy of the report shall be immediately handed over to the apprehended person against signature and also sent to a prosecutor.
5. According to Article 212 of CPC a competent official shall have the duty to ensure appropriate treatment of an apprehended person and respect for his/her rights provided for by the Constitution of Ukraine, the CPC and other laws of Ukraine, ensure urgent provision of adequate medical assistance and fixation of any bodily injuries or deterioration of an apprehended person's state of health by medical personnel. Upon request of an apprehended person, a specific person of his/her choice who is certified to provide medical assistance may be allowed to be amongst providers of medical care to an apprehended person.
6. Also, Article 213 of CPC defines the strict procedure of notification of other persons of an apprehension. A competent official who carried out an apprehension shall be under the obligation to give an apprehended person an opportunity to immediately inform of his/her apprehension and whereabouts his/her close relatives, family members or other persons of his/her own choice.
7. An official who carried out the apprehension should notify the body (institution) authorized by the law to provide free legal aid immediately. In case a defense counsel appointed by the body (institution) authorized by the law to provide free legal aid fails to arrive within the dates established by the law, a competent official shall immediately advise the body (institution) authorized by the law to provide free legal aid. An official responsible for the keeping of an apprehended person shall be required to verify compliance with the requirements of this Article and, in case of failure to perform notification of apprehension, to carry out the procedures provided herein him/herself.

8. Officials of the Security Service of Ukraine (hereinafter — SSU) during their official activities shall fully adhere to the provisions of the Constitution of Ukraine defining the right of a person to freedom and personal integrity (Article 29), medical aid (Article 49), legal assistance and protection from prosecution (Article 59), provisions of CPC regulating the procedure of apprehension of a person and his/her rights (paragraphs 1, 2 of Chapter 18 of CPC) and other legal acts regulating the guarantees of compliance with human rights.
9. Aiming to prevent violations of the current legislation the Central Department of the SSU coordinates and controls investigative agencies activities on pre-trial investigation with respect to safeguarding the procedural rights of an apprehended person, including through immediate informing of an apprehended person about the ground for his/her detention and the crime he/she is suspected to have committed, clarifying his/her rights to a defense counsel, medical aid, urgent notification of other persons of his/her choice about his/her apprehension and location pursuant to Article 213 of CPC.
10. As of 29 November 2016 no abovementioned violations by the SSU investigators had occurred, including while carrying out their duties in the antiterrorist operation area.
11. The SSU, under the provisions of Article 7 of the Law of Ukraine “On counterintelligence activity”, maintains a special facility for temporary detention (temporary detention facility) of the Security Service of Ukraine (hereinafter — TDF).
12. Procedure, regime and conditions of stay of detained persons and those taken into custody in this facility are regulated by the Instruction on the procedure of keeping persons in custody in the special temporary custody facilities (temporary detention facility) of the SSU adopted on 26 July 2008 by the SSU Order No. 589 and registered on 22 October 2008 in the Ministry of Justice of Ukraine by No. 1013/15704.
13. The procedure of detention and custody of persons in TDF is regulated by the principles of strict compliance with the Constitution of Ukraine, provisions of the Universal Declaration of Human Rights, other relevant international legal rules and standards of treatment of detainees and persons under custody. The abovementioned procedure may not involve commission of any intended actions aimed at infliction of physical or moral suffering, or degrading of human dignity of the detainees or persons under custody.
14. On 29 November 2016 TDF was inspected by the delegation of the European Committee on Prevention of Torture or Inhuman and Degrading Treatment or Punishment (CPT). CPT representatives did not express any critical remarks and did not reveal violations of national legislation of Ukraine or the European Convention on Prevention of Torture or Inhuman and Degrading Treatment or Punishment.
15. Also critical remarks were not expressed to SSU by the Subcommittee on Prevention of Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) during its visit to Ukraine in September 2016.
16. The State Border Service of Ukraine continues to undertake activities on harmonizing its temporary detention system with the international standards, including with respect to informing detainees of their rights and obligations.
17. For example, with the support of IOM Office in Ukraine, places of temporary detention of the State Border Service have been provided with 33 information stands with visual information on the rights of detainees and with booklets in different foreign languages containing a list of main provisions of national and international legislation on fundamental human and civil rights and freedoms.
18. The State Border Service of Ukraine continues activities to ensure strict compliance with international and national legislation in the field of protection of human rights, including the strict adherence to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
19. With the purpose of appropriate informing of persons taken to temporary detention centers of the National Police of Ukraine (TDCs), billboards “Rights of detained persons in the temporary detention centers of the National Police of Ukraine” were developed and produced in 12 languages with support of NGO “Kharkiv Institute of Social Researches”

and Norwegian Mission of Rule of Law Advisers (NORLAU). All main TDCs are equipped with these billboards so far.

20. At the same time, aiming to increase the level of public awareness on citizens' rights and ensuring their protection, from October 27 until November 30 of 2016 in Bila Tserkva city (Kyiv region) and Shevchenkivskiyi and Desnianskyi districts of Kyiv city an experiment was carried out on informing victims, witnesses and detained persons about their rights through providing them with booklets (including in foreign languages) by the police officers. Pilot introduction of the experiment in one of the Ukrainian regions is currently under consideration.

21. Duties on providing medical service (medical assistance) are not imposed on the National Police of Ukraine. In light of that, medical service of detained persons, those taken into custody and administratively arrested is carried out by the medical personnel of the territorial institutions of health care system of the Ministry of Health of Ukraine.

22. Before being taken to TDCs detained persons should undergo a mandatory medical examination by the above-mentioned medical personnel of health care institutions with a view of revealing body injuries or other diseases, and when needed, hospitalization and comprehensive medical treatment should be provided for such persons.

23. Additionally, before being taken to TDCs all persons should be informed about their rights and obligations while being in TDCs.

24. Aiming to ensure rights and legal interests of detained persons and those taken into custody the National Police of Ukraine implements the international experience regarding forms and methods of technical fixation of actions towards persons held in TDCs.

25. In accordance with the Action Plan to Implement the National Human Rights Strategy up to 2020 (adopted by the Decree of the Cabinet of Ministers of Ukraine No. 1393 of 23 November 2015) in 75 TDCs and 23 Main Offices of the National Police of Ukraine an informational subsystem "Custody records" has been developed and introduced in the test regime.

26. The informational subsystem "Custody records" provides an opportunity to ensure a clear procedure of fixation and distant control of moving of persons detained in TDCs; to prevent human rights violations of detained persons and exceeding their detention terms. In particular, this subsystem contains the information regarding providing of detainees with medical and health services, free secondary legal assistance etc.

27. Besides, within the framework of the Memorandum on cooperation between the National Police of Ukraine and the Ministry of Justice of Ukraine on providing free legal assistance, draft joint order of the Ministry of Justice and the Ministry of Internal Affairs was developed about the procedure of placement of print materials with information on the right of a person for legal protection and free legal aid in the territorial bodies of the National Police of Ukraine and in the institutions centers under its authority.

28. Aiming to ensure fundamental rights and freedoms of military servicemen detained by the Military Law Enforcement Service for committing administrative offences, legislative acts of the Ministry of Defense of Ukraine establish procedure of providing detainees with information and explanations of their rights, prompt access to an independent lawyer as well as the right to inform the relatives or other persons of a detainee's choice.

29. For this purpose, while drafting protocols for committing administrative offence and detention military servicemen are being informed in details about their rights; the administration of a military unit as well as detainee's relatives and a Center for providing free legal aid are notified about the detainee's location. In case of apprehension of a person for committing a criminal offence a relevant authority of pre-trial investigation also receives a notification.

30. Prosecution authorities pay specific attention to observance of mentioned legislation provisions during conducting supervision of compliance with legislation by the authorities performing operational and search activities, interrogation, and pre-trial investigation. Response measures are taken if there are grounds for them.

31. The General Prosecutor's Office according to the National Human Rights Strategy up to 2020 and the Action Plan for its implementation is engaged in the creation of an online mechanism for registration of detained persons, data collection regarding detainees' rights violations as well as of an independent mechanism for complains consideration that will ensure timely, impartial and thorough investigation of allegations of committing torture and ill-treatment.

32. Pursuant to requirements of the Law of Ukraine "On free legal aid" (hereinafter — the Law on free legal aid) and Criminal Procedure Code of Ukraine, since 1 January 2013, centers for providing free secondary legal aid (hereinafter — regional centers) has been established in the regions of Ukraine and in Kyiv city that provide free secondary legal aid to persons referred to in paragraphs 3-7 of part 1 of Article 14 of the Law on free legal aid, particularly to:

- Persons taken under administrative detention or administrative arrest;
- Persons who according to CPC provisions are considered to be detained;
- Persons taken into custody;
- Persons in criminal proceedings regarding whom in accordance with CPC provisions a defense counsel is engaged by investigator, prosecutor, investigative judge or by court to ensure a legal protection by designation or to carry out a separate procedural action;
- Persons sentenced to deprivation or restriction of liberty or detention of servicemen in a disciplinary battalion or restriction of freedom.

33. An early access to free secondary legal aid of persons who according to CPC provisions are considered to be detained and to persons taken under administrative detention or administrative arrest is provided by the regional centers in accordance with the Procedure of informing the centers for providing free secondary legal aid about the cases of apprehension, administrative arrest or taking into custody (hereinafter — Informing procedure) adopted by the Resolution of the Ukrainian Government (the Cabinet of Ministers of Ukraine) of 28 December 2011 No. 1363 (with amendments).

34. According to the mentioned Informing procedure, immediately after factual apprehension of a person, subjects of the submission of the information (the police authorities and other authorities entitled to execute an apprehension) shall notify through mobile or fax connection a regional center about an apprehended person data.

35. A regional center within one hour from the time of registration of such notification shall appoint a lawyer for providing free secondary legal aid to an apprehended person by submitting to a lawyer an appropriate order. An appointed lawyer within one hour from the moment of receiving an order arrives to an apprehended person to hold a confidential meeting with him/her.

36. In case when the lawyer appointed by the regional center for providing free secondary legal aid does not gain an access to a detained person (a suspect, an accused person) the lawyer immediately informs a relevant regional center about that situation. Following receiving this information from the appointed lawyer the regional center shall prepare and send a relevant letter to the territorial police authority of a relevant region (district) or to the Directorate General (Directorate) of the Ministry of Internal Affairs of Ukraine with the requirement to conduct an internal investigation and, in case a violation has been established, to undertake appropriate disciplinary measures towards perpetrators of such violations.

37. In order to reveal cases of violations of CPC and the Informing procedure by the subjects of submission of the information regional centers also carry out reconciliation of the information about apprehended persons with the subjects of submission of the information and monitor official web-sites of the appropriate regional (city) offices of the Ministry of Internal Affairs of Ukraine and territorial police units.

38. To ensure the implementation of an appropriate order of the Coordination Center for providing free legal aid of the Ministry of Justice of Ukraine, regional centers on a

quarterly basis provide an information on the cases of violation of the CPC requirements and the Informing procedure by competent officials of the police authorities as well as an information on disciplinary measures or/and disciplinary chastisements applied to perpetrators of such violations.

39. According to the operative information provided by regional centers within the period from 01 January 2013 to 22 December 2016 298,908 orders for lawyers to provide free secondary legal aid had been issued including:

- 20,842 — to persons who were subjected to administrative detention;
- 19,173 — to persons who were subjected to administrative arrest;
- 72,834 — to persons who were detained under suspicion in committing a crime and/or in respect of whom a preventive measure in the form of detention in custody is selected;
- 15,7756 — to exercise the protection by appointment;
- 12,409 — to participate in the carrying out of certain procedural actions in the criminal proceedings;
- 5,125 — to persons who were sentenced to a punishment in the form of deprivation of liberty, servicemen detention in a disciplinary battalion or restriction of freedom.

40. Due to professional work of the lawyers who cooperate with the regional centers and provide free secondary legal aid in the criminal proceedings on the basis of the issued orders during 2013-2016 there were

- 2,488 acquittals made and/or criminal proceedings closed due to the absence of the composition or incident of a crime;
- 2,400 refusals to grant a motion of a prosecutor, an investigator on the selection of a preventive measure for a suspect, an accused in the form of detention in custody were recorded; 15797 exemptions from serving a punishment on probation;
- Over 17,400 appointments of the minimal term of punishment or appointment of a more lenient sentence than the one provided by law.

41. Under the terms of the relevant contracts all lawyers who are involved by the centers for the provision of legal aid must adhere to Quality standards for provision of free secondary legal aid in criminal proceedings approved by the Order of the Ministry of Justice of 25 February 2014 № 386/5 (hereinafter — Standards). Standards define the set of statutory actions of a lawyer during the provision of legal aid stipulated by international legal acts and the legislation of Ukraine.

42. In particular the general standard No. 6 provides that a defender shall immediately take measures to provide a client with medical care, to record the bodily injuries, to carry out a forensic medical examination if the appearance or state of a client indicates the use of violence to him/her or if a client complains of its use. Also a defender shall find out the presence of facts of the use of tortures to a client, other cruel, inhuman or degrading treatment by officials of the operational divisions, pre-trial investigation authorities, penitentiary service, other officials and, if there are such facts, shall draw up a relevant report in the form under the Annex 2 to Standards, shall report in written on the referred facts to a procedural chief and shall apply with a relevant application to an investigative judge under the procedure of Article 206 of CPC.

43. Failure to comply with the above-mentioned requirements by a defender shall entail the civil liability provided by law and by the terms of the contract (agreement) with a center.

44. Moreover for the purpose of combating torture and ill-treatment the Memorandum on cooperation between the Coordination center and the Ukrainian Parliament Commissioner for Human Rights of 10 December 2013 as well as between the National Police of Ukraine and the Ministry of Justice of Ukraine of 12 February 2016 were signed, in the framework of which the coordination of the efforts between free legal aid system, referred institutions and the National preventive mechanism is carried out.

**Information on implementation paragraph 10 (a)**

45. The investigative division of the Administration of the Security Service of Ukraine in Donetsk Region conducts the pre-trial investigation in the criminal proceeding № 201405000000047 under suspicion of the citizens Skrypnyk V.O., Druzhynin E.I., Stelnykovych O.V., Zakharov R.B., Birukov V.S. and others that on 9 May 2014 during the seizure of the premises of Mariupol City Administration of the Directorate General of the Ministry of Internal Affairs of Ukraine in Donetsk region had used the automatic firearm weapons, as a result 2 persons died and 5 persons injured. Pre-judicial investigation continues.

**Information of the General Prosecutor's Office concerning the investigation of certain events and cases***Dispersal of the protest rally on the night of 30 November 2013*

46. Following the pre-trial investigation of the events on 30 November 2013 the indictments were submitted to a court in respect of: the former Head of the Kyiv City State Administration, 2 deputy commanders of the regiments OCMD Berkut, 2 commanders and a deputy commander of different squads OCMD Berkut. Officials of the OCMD Berkut are suspected of illegally obstructing the holding of rallies during mass protests, and one of them — also in the preventing of lawful professional activity of journalists.

47. 15 persons in total are informed on the suspicion, including the former President of Ukraine Yanukovych V. F., the Secretary of the national security and Defense Council of Ukraine Kluev A.P., the Deputy Secretary of the national security and Defense Council of Ukraine Sivkovych V.L., the Head of the Directorate General of MIA of Ukraine in Kyiv Koriak V.V., the Deputy Head the Directorate General of MIA of Ukraine in Kyiv Fedchuk P.M., the Commander of the OCMD Berkut Kusiuk S.M. and others.

*The confrontations at Bankova Street in Kyiv on 1 December 2013*

48. The pre-trial investigation is completed and the indictments are submitted to the court for consideration on the merits in the criminal proceedings on suspicion in respect of the inspector of Department of public safety of the Directorate General of MIA of Ukraine, the Commander of the OCMD Berkut in the region and Deputy Squad Commander of the OCMD Berkut of the Directorate General of MIA of Ukraine in the region.

49. The suspicion of abuse of official power during mass protests on 1 December 2013 at Bankova Street in Kyiv under paragraph 4 of Article 41, paragraph 2 of Article 365 of the Criminal Code of Ukraine (CC) was announced to the junior inspector of the automobile service of the OCMD Berkut of the Directorate General of MIA of Ukraine in one of the regions, who is hiding from the investigation authorities and is wanted. The court ruling of 27 July 2016 granted permission to carry on a special pre-trial investigation, and an indictment was submitted for consideration to the Pechersky district court of Kyiv city on 5 August 2016.

50. In addition to the mentioned persons, the suspicion announced to the ex-President of Ukraine as well as to the former management of MIA of Ukraine; Directorate General of the MIA of Ukraine in Kyiv and of the Internal Troops of the MIA of Ukraine.

51. The pre-trial investigation is completed in relation of suspecting the former Head of the Department of Public Safety of the Directorate General of MIA of Ukraine in Kyiv who is charged with giving to OCMD Berkut officers and soldiers of the Internal Troops of the MIA of Ukraine under his control an obviously illegal order to use physical force and special means against the protesters on 1 December 2013 in the Bankova Street in Kyiv, resulting in bodily injuries to more than 29 protesters and 22 media representatives (Article 367 (2), Article 41 (4), Article 365 (3), Article 171 (1), Article 41 (4), Article 340 of CC).

52. Moreover he is suspected in the organization of implementation of the obviously illegal order to empty the Maidan Nezalezhnosti (Independence Square) in Kyiv using the force against the protesters, due to the implementation of which more than 80 protesters were injured.

53. The defense party is granted the access to the files of the proceeding.

*Dispersal of the protest rally on the night of 10-11 December 2013*

54. During the pre-trial investigation the suspicions were announced to the former Commander of the squad and the Commander of the division of the squad of the OCMD Berkut of the Directorate General of MIA of Ukraine in the region and the Deputy commander of the regiment — the Chief of Staff of OCMD Berkut. The criminal proceeding in respect of the Deputy commander of the regiment — the Chief of Staff of OCMD Berkut is suspended due to the search of the suspect. In respect of the other suspects the indictments are submitted to the court for consideration.

55. Moreover the suspicion is announced to the ex-President of Ukraine and the former management of the MIA of Ukraine.

*Involving of the “titushky” and their counteraction to the protests*

56. Following the results of the pre-trial investigation of the above-mentioned crimes the indictments have been submitted in respect of: 3 persons accused of committing attempted murder of protesters; 5 persons accused of committing hooliganism, robbery, kidnapping; 1 person accused of committing hooliganism in respect of the journalist Veremiy V.V.; 3 officers of the Directorate General of MIA and 1 person regarding the removal of arms and ammunition from the MIA warehouses the with purpose of transferring them to the “titushky”.

57. According to the sentence of the Obolonsky District Court of Kyiv of 7 December 2015 one of the accused was convicted to 4 years of deprivation of liberty, other was convicted to 4 years of deprivation of liberty with a probation period of 3 years. An appeal of the defense party was left without satisfaction, the verdict of the court — without amendments.

58. According to the sentence of the Darnytsky District Court of Kyiv of 5 May 2016 a person (so called “titushka”) who jointly with others committed kidnapping, was convicted to 3 years of deprivation of liberty with a probation period of 1 year.

59. The pre-trial investigation is completed in the criminal proceeding in relation of the 6 civil persons (so called “titushky”) suspected in committing illegal obstruction of the holding of a rally, meeting and demonstration using a physical violence, harassment of journalists while performing their professional duties and causing them bodily harm. A special pre-trial investigation regarding them has been permitted by the court rulings. Currently the requirements of Article 290 of CPC are being implemented and the defense party continues to learn the criminal proceeding documents.

60. In total the investigators of the Department for Special Investigations of the Prosecutor General of Ukraine (hereinafter — DSI) have announced on suspicion to 29 “titushky”, the indictments in relation of 10 have been submitted to court, the others are wanted.

*Unlawful prosecution by law enforcement and judicial authorities of protesters, including activists of “Automaïdan” movement*

61. DSI investigators during a pre-trial investigation are examining the legality of the actions and decisions of more than 200 officers of the law enforcement authorities, 80 prosecutors and 100 judges in criminal proceedings in respect of 153 persons, who had been brought to criminal liability for participation in mass riots under Article 294 (2) of CC.

62. In total the investigators of the Prosecutor General of Ukraine have reported on suspicion to 14 investigators (9 — by DSI investigators), 6 prosecutors (2 — by DSI investigators) and 2 judges. The pre-trial investigation is completed and the indictments are submitted to court in respect of 2 judges, 4 prosecutors and 8 investigators of the law enforcement authorities.

63. DSI investigators completed the pre-trial investigation in criminal proceedings regarding 2 investigators of the Investigative Division of the Dniprovsky District Division



of the Directorate General of MIA of Ukraine in Kyiv suspected in illegal detention of citizens, unreasonable bringing to criminal liability for alleged active participation in the mass riots. The indictments are submitted for consideration to the Dniprovsky District Court of Kyiv.

64. The requirements of the Article 290 of CPC are being implemented in the criminal proceeding on suspicion of a prosecutor of the Division of the Prosecutor's office of Kyiv who with purpose of bringing of certain persons to criminal liability had been approving the notifications of suspicion of persons for alleged active participation in mass riots.

65. The pre-trial investigation is completed in the criminal proceeding in relation to the suspicion of the First Deputy of the Head of the Dniprovsky District Department of Militia in Kyiv — the Head of the Investigative Division, his Deputy and 4 investigators of this Investigative Division who are suspected in committing the falsification of the documents of proceedings, illegal detention and bringing to criminal liability 11 knowingly innocent persons for alleged participation in mass riots on 18 February 2014 in Kyiv. Currently the requirements of Article 290 of CPC are being implemented and the defense party continues to study the criminal proceeding documents.

66. An indictment have been submitted to court in criminal proceeding in relation of suspecting the former investigator of the City Department of the Directorate General of MIA of Ukraine in Kyiv and the operative authorized of criminal investigation of the Directorate General of MIA of Ukraine in Kyiv who on a basis of a number of forged documents, trying to prevent holding of the protests in the central part of Kyiv that took place in December 2013-January 2014, following the instructions of the management of the law enforcement authorities, conducted illegal wire-tapping of the protesters.

67. DSI completed pre-trial investigation and indictment is submitted to court in criminal proceeding in relation to suspecting the Commander of the squad of OCMC Berkut at the Directorate General of MIA of Ukraine in Kyiv who on 23 January 2014 in Kriposny lane in Kyiv together with other subordinate officers, exceeding the power granted to them, illegally detained with violence and causing injuries 11 participants of "Automaidan" movement, which then had been brought to criminal liability for alleged participation in mass riots on a basis of forged documents and knowingly false testimony.

68. The pre-trial investigation in criminal proceedings is completed in relation to a number of accomplices in the mentioned crimes — 7 officers of the Special Forces unit and the Deputy commander of special forces OCMC Berkut. An indictment is submitted for consideration to the Pechersky District Court of Kyiv.

69. The pre-trial investigation is completed and the indictments are submitted to court in criminal proceedings in relation to the commander of squad # 1 of the special forces unit Berkut and 5 officers of this squad suspected in abuse of power and illegal detention of 18 activists of "Automaidan" movement on the night of 22-23 January 2014 in the Schorsa street and Hrushevskogo street in Kyiv, accompanied by use of violence and damaging their 11 cars.

70. DSI carries out the pre-trial investigation on the fact of unlawful harassment by the law enforcement authorities of the protesters by bringing them to administrative liability. In total the officers of the State Auto Inspection in the period from 22 December 2013 to 10 February 2014 made 473 reports on administrative offenses committed by the activists of "Automaidan" movement and other participants of peaceful protests, on the basis of which then the protocols on administrative offences were made provided for in Article 122-2 of the Administrative Offences Code of Ukraine.

71. The suspicion is announced in the criminal proceeding in relation to the Head of the Department of the State Auto Inspection (SAI) of the Directorate General of MIA of Ukraine in Kyiv, his Deputy, Deputy Commander of the 3rd platoon of the 1st battalion and Deputy Head of regiment of the SAI Patrol Service at the Directorate General of MIA of Ukraine in Kyiv, as well as 20 inspectors of this regiment in committing the criminal offences provided in Article 27 (2), Article 366 (1), Article 340 of CC of Ukraine.

72. The pre-trial investigation is completed in relation to 19 former officers of SAI Department of the Directorate General of MIA of Ukraine in Kyiv, the requirements of

Article 290 of CPC are being implemented and the defense party continues to study the documents of the criminal proceeding.

73. The suspicion is announced to one civil person regarding the fact of committing for a reward of provocation on the night 22-23 January 2014 against participants of “Automaidan” movement on the territory of Kyiv city clinical hospital #17 for the purpose of their subsequent detention by the militia (Article 27 (5), Article 28 (2), Article 365 (3), Article 383 (2), Article 384 (2) of CC).

*Disperse of the peaceful demonstration on 18 February 2014*

74. As a result of investigations of the above mentioned events, 5 incriminating acts have been sent to the court regarding 3 commanders of OCMD Berkut in region, an officer of OCMD Berkut division, who was charged with abuse of power and official authority, causing injuries etc., and also regarding a suspected civilian accused in committing hooliganism against journalist Veremiy V.V.

75. Court verdict of 22 July 2016 sentenced an officer of OCMD Berkut division to 5 years of imprisonment with probation for 3 years and disqualification to hold positions in law enforcement for a period of 3 years.

76. Four former officers of OCMD Berkut of the Directorate General of MIA of Ukraine in Kharkov region are detained, who were wanted and suspected of illegally obstructing the holding of gatherings, meetings by using special means and causing grievous bodily harm to 35 citizens, and committing attempted murder of two and more persons in a manner dangerous to the lives of many people. One of the suspects is accused of committing murder during these events.

77. In addition, 2 of detained officers of OCMD Berkut of the Directorate General of MIA of Ukraine in Kharkiv region are suspected of committing illegal acts against protesters on 21 January 2014 at the crossroads of Hrushevskogo Street and Parkova road in Kyiv.

78. On suspicion of causing on 21 January 2014 a moderate bodily harm to two protesters on the roof of colonnade of the stadium “Dynamo”, which is at the crossroads of Hrushevskogo St. and Parkova road in Kyiv, a former officer of OCMD Berkut of the Directorate General of MIA of Ukraine in Kharkiv region was detained. A suspicion of a criminal offense provided for in par. 2, Art. 365 of CC of Ukraine was announced to this person.

79. Suspicions based on the facts of these events were announced to the ex-President of Ukraine, leadership of MIA of Ukraine and of the Directorate General of MIA in Kyiv.

*Assault of protesters on the Independence square under the guise of anti-terrorist operation at the night of 18-19 February 2014*

80. Pre-trial investigation in the criminal proceedings against the former Head Directorate General of the State Security Service in Kyiv and Kyiv region is completed. He is charged with abuse of power (the decision made on the anti-terrorist operation), which caused grave consequences — death, injuries of varying severity, damage to property of legal entities and individuals.

81. In addition, the indictment in respect of 3 civilians on suspicion of attempted murder of protesters is directed to court.

82. Suspicions in provision to MIA officers of Ukraine in the period December 2013-February 2014 of unlawful benefit in cash for the commitment of counteractions against protesters with excessive force and special means, and assaulting Maidan on 18 February 2014 were announced to the former Deputy Head of the Department — the Head of the Public Safety Department of MIA of Ukraine.

83. Suspicions were announced to the Ex-President of Ukraine, the leadership of MIA, SSU, Directorate General of the MIA of Ukraine in Kyiv, Directorate General of SSU in Kyiv and Kyiv region, as well as “titushky” and their organizers.

*Shooting down of protesters on 20 February 2014*

84. By the results of investigation, indictments were brought to court concerning: 2 former officers of special forces regiment Berkut on the facts of murders of 39 protesters; 3 officers of special forces regiment Berkut on the facts of committing terrorist act, killing 48 protesters, criminal attempts of murder of 80 persons. These proceedings were combined during the trial.

85. Totally, suspicions were announced to 26 former officers of Special Forces regiment Berkut. 21 former officers of Special Forces regiment Berkut of the General Directorate of MIA of Ukraine in Kyiv are wanted. A permission is granted to conduct a special pre-trial investigation concerning them by the court's resolutions.

86. Also suspicions were announced to another 6 high-ranking state officials, law enforcement authorities and representatives of the Directorate General of MIA of Ukraine in Kyiv on the fact of issuance a criminal order and organizing shootings at the Instyutaska Str. in Kyiv on 20 February 2014.

87. A number of objective reasons complicates the establishment of the truth and explains long term investigation, particularly:

(a) The mass escape of concerned high-ranked officials, law enforcement officers abroad and to the temporarily occupied territories;

(b) On the primary stage, a failure of quick and proper changes of leadership of the police units who were involved in countering the protest actions and failure to take measures for the preservation of documents and physical evidence;

(c) Lack of proper work on independent identification and documenting of managers and other officers of law enforcement authorities who perpetrated illegal countering of the above actions;

(d) Deliberate non-preparation and further systematic destruction of the vast array of documents related to the activity of law enforcement authorities at that time, particularly about distribution, issuance, receiving, delivery of firearms and their use by the officers of special forces regiment Berkut;

(e) Theft of a significant number of firearms at disposal of the above special forces regiment;

(f) Destruction of the majority of special investigative cases processed by MIA of Ukraine and SSU in connection with the mass protests;

(g) Concealed resistance and lack of will to establish the truth on the part of law enforcement officers — direct participants of the counter-protest actions, covert obstruction to investigations;

(h) Interpol refusal to announce people in international search, making it impossible to use a special procedure of investigation;

(i) Substantial delays in terms of pre-trial investigation through the misuse of the relevant legal procedure of conducting investigative actions, as well as the failure to provide or delay in providing the temporary access to evidences and documents before courts.

88. Despite these difficulties when implementing the pre-trial investigation, in the proceeding of that category, suspicion in committing crimes were announced by investigators of the General Prosecutor's Office of Ukraine to 197 persons (directly by the investigators of the Special Investigations Department (SID) of the General Prosecutor's Office of Ukraine — 184), particularly: 35 high-ranking officials (by SID — 35), to 122 police officers including 14 investigators (by SID — 108 and 9 respectively), to 6 prosecutors (by SID — 2), to 2 judges and 32 civilian persons — “titushky” (by SID — 32). 40 indictments concerning 77 persons were sent to the court (out of which 35 indictments concerning 64 persons by the SID investigators). By the results of judicial consideration, 11

persons were found guilty for committing crimes, for 10 persons — convictions were adopted.

89. In general, the law enforcement agencies of Ukraine in the proceedings of such category announced a suspicious of committing crimes to 347 persons, particularly to 49 high-ranking officials, 187 law enforcement officials including 19 investigators, 12 prosecutors and 14 judges.

90. 139 indictments concerning 194 people were brought to court. The courts adopted 25 conviction verdicts concerning 35 persons.

91. SID alone conducted more than 11,000 investigation actions, questioned nearly 8,000 witnesses and victims, and appointed more than 2,500 expert examinations.

#### *Events in Mariupol city on 9 May 2014*

92. Investigative unit of the SSU Office in Donetsk region launched pre-trial investigation of criminal proceeding by the fact of terrorist act committed on May 9, 2014 by unidentified persons using firearms by attacking on the premises of the Mariupol city office of the Directorate General of the MIA of Ukraine in Donetsk region with the purpose of its seizure that lead to death and injuries of people.

93. Investigation has established that in April 2014 unidentified persons - Mariupol city residents with nicknames “Mangust” and “Pryzrak” created in Mariupol a terrorist group consisted of illegal military formation “Vostok” of the terrorist organization “Donetsk people republic” to commit on the territory of Mariupol in the period from April to September 2014 actions aimed at destabilizing the situation in the city, specifically committing on the territory of Mariupol city and close districts of Donetsk region (Volodarsky, Pershotravnevy, Novoazovsky districts) diversions and terrorist acts, and promoting further seizure of Mariupol city by the illegal armed groups of the “Donetsk people republic”.

94. On 22 September 2014 4 people were detained under the procedure of Article 208 of CPC of Ukraine by the investigative unit of the SSU Office in Donetsk region. A preventive measure of taking into custody was applied to them.

95. In the course of investigation the involvement of mentioned persons in committing a terrorist act — the seizure of the premises of Mariupol city office of the Directorate General of MIA of Ukraine in Donetsk region on 9 May 2014 that led to death of people and committing a robbery and killing of Litvinov A.S. — was established.

96. Regarding mentioned 4 persons on 11 March 2015 documents were allotted in a separate proceeding. In that proceeding an indictment was adopted concerning mentioned persons by the facts of committing the criminal offences stipulated by p.1 of Article 258-3, p. 3 of Article 258, p. 4 of Article 187, paragraphs 6, 12 of p. 2 of Article 115, p. 3 of Article 289, p. 1 of Article 263 of CC. On 20 March 2015 the indictment was sent for consideration to the Illichivsky district court of Mariupol city in Donetsk region, where the trial has been ongoing.

97. Pre-trial investigation in the criminal proceeding from 9 May 2014 by the fact of committing of terrorist act by other persons in the premises of Mariupol city office of the Directorate General of the MIA of Ukraine in Donetsk region that led to death of people currently has been ongoing.

#### *Events in Odessa city on 2 May 2014*

98. Main Investigation Department of the National Police of Ukraine has completed pre-trial investigation in criminal proceedings on the grounds of criminal offenses under Part 2 of Article 294 and Part 1 of Article 263 of CC.

99. It was established by the pre-trial investigation that on 2 May 2014 at 3 P.M. at the Gretska Str. and Kulykove Pole Square in Odessa city massive riots took place between participants of rally “For the unity of Ukraine” which was attended by activists of Euromaidan, “Right Sector”, “Self-defense”, Kharkiv and Odessa football fans on one side

and pro-Russian activists on another side. Baseball bats, means at hand (stones, sticks), incendiary mixtures, traumatic and firearms were used during the riots.

100. Forty-eight people died and over 200 received injuries of varying severity as a result of these criminal acts.

101. On 24 November 2014, a procedural procurator adopted an indictment concerning 20 people on the facts of criminal offence provided for in Part 2 of Article 294 of CC and concerning 1 person on facts of criminal offences provided for in Part 2 of Article 294 and Part 1 of Article 263 of CC.

102. In general, on the facts of the riots that occurred in Odessa city on 02/05/2014 6 criminal proceedings against 26 persons on grounds of crimes stipulated by p. 2 of Article 294, p. 1 of Article 263, paragraphs 1, 6, 9 of p. 2 of Article 115 of the Criminal Code of Ukraine were directed to the court.

103. Moreover, the General Prosecutor's Office of Ukraine has carried out a procedural management in criminal proceeding by the fact of willful leaving in danger of people in life threatening state by the officials of the Directorate General of the State Service on Emergency Situations in Odessa region during the events on 2 May 2014 in Odessa city on the grounds of a criminal offence provided for in p. 3 of Article 135 of CC. Pre-trial investigation by the Directorate General of the National Police of Ukraine has found that officials of the Directorate General of the State Service on Emergency Situations in Odessa region on 2 May 2014 had left without help those who were in life threatening situation during fire suppression and rescue of people in the House of Trade Unions that caused severe consequences to rights, freedoms and interests of citizens guaranteed by the law and caused deaths of 42 people.

104. In the proceeding, 5 officials of the Directorate General of the State Service on Emergency Situations in Odessa region who at that time occupied the positions in the relevant unit of the State Service on Emergency Situations of Ukraine received a suspicion of committing the crime provided for in p. 3 of Article 135 of CC. The pre-trial investigation concerning 3 persons is completed, an indictment is sent to the court on 25 June 2016 for consideration on the merits. The pre-trial investigation was stopped concerning 2 other suspected whose materials were allotted into a separate criminal proceeding — due to them being at search.

105. Additionally, the General Prosecutor's Office of Ukraine has sent an indictment to the court in the criminal proceeding by the fact of illegal abduction of Verbytsky Y.S. and Lutsenko I.V. and also a murder of Verbytsky Y.S. Concerning other suspected persons in committing mentioned crime the pre-trial investigation was stopped on the ground of paragraph 2 of p. 1 of Article 280 of CC due to them being at search.

106. Additionally, the Directorate General of the National Police in Odessa region carries out a pre-trial investigation in criminal proceeding by the facts of mass riots with the use of arms accompanied by violence against people, property destruction and leading to the death of people that occurred on 2 May 2014 in Odessa city on the grounds of criminal offences provided for in parts 1, 2 of Article 296, p. 3 of Article 345, Article 341, p. 2 of Article 194, p. 2 of Article 294, p. 1 of Article 115 of the CC.

107. Currently in the said criminal proceedings planned investigative actions are carried out aimed at establishing all the circumstances of criminal offenses and persons involved in their commission.

#### **Information on implementation paragraph 11 (a)**

108. The Main Investigation Department of SSU carries out the pre-trial investigation in criminal proceeding No. 2201400000000475 suspecting the citizen of Russian Federation Pavlov A.S. in committing a crime provided for in Part 1 of Article 115 of CC. A member of a terrorist organization "DNR" Pavlov A.S. (nickname "Motorola"), who headed the illegal armed formation "Sparta" while being on the territory of Donetsk city had subjected the captured soldiers to ill treatment, committed an intentional murder by shooting three times from a firearm at soldier of the Armed Forces of Ukraine Branovitsky I.E. that caused

his death. On 12 August 2015 suspected Pavlov A.S. was announced wanted, pre-trial investigation was terminated.

109. Altogether there are 8568 victims of crimes committed by the terrorist organizations, of which 5659 are wounded and 2909 are killed. All that crimes are in pre-trial investigations which are investigated by the SSU pre-trial investigation authorities.

110. The collection of evidence, confirming ill treatment of Ukrainian servicemen and civilians, expulsion of the civilian population for forced labor, looting of national values in the occupied territory, use of means of warfare prohibited by international law, as well as committing the above mentioned acts involving intentional murders, is underway.

111. For the purpose of inter-agency coordination of work on search, release of the illegally detained persons and hostages and locating of the missing persons in the area of anti-terrorist operation (hereinafter — ATO) the SSU United Center for coordination of search, release of the illegally detained persons and hostages and locating of the missing persons in the area of anti-terrorist operation was formed (hereinafter — the Center). The Regulation on the Center was approved by the order of SSU, Ministry of Defense and MIA No. 237/267/388 of 19 May 2016, registered in the Ministry of Justice on 14 June 2016 (number 856/28986).

112. The main task of the Center is the coordination of the measures of SSU, Ministry of Defense, MIA, National Guard of Ukraine, National Police of Ukraine, State Border Service of Ukraine, State Emergency Service of Ukraine, as well as NGOs and individuals (by consent) on matters of:

- (a) Search, release of the illegally detained persons and hostages in the ATO area;
- (b) Locating of the missing persons in the ATO area;
- (c) Search and return of the corps of those killed in the ATO area.

113. Within the assigned tasks the Center established and maintains records of the servicemen and civilians which have been illegally detained or missing in ATO area, starting from 7 April 2014.

114. Following above records as for 29 November 2016 there are:

- 108 hostages;
- 495 missing persons;
- 3,083 found and released persons.

115. The information recorded in the Center in respect of the affected individuals is permanently used for the negotiation process for the release of the hostages and searching the missing persons during the meetings of the Trilateral Contact Group on the peaceful settlement of the situation in the East of Ukraine (in the framework of the Minsk format), as well as during the activities in the non-controlled territories of the international humanitarian organizations.

116. Law enforcement authorities of Ukraine within their competence carry out the pre-trial investigations of the crimes committed in the ATO area in the east of Ukraine, including cases of torture and other cruel treatment, enforced disappearances and deprivation of life. As part of the pre-trial investigation of relevant criminal offenses the investigators and prosecutors carry out the collection of the evidences in order to ensure the tasks of criminal proceedings.

117. The prosecution authorities in this process are carrying out the powers in accordance with the requirements of the Criminal Procedural Code of Ukraine by supervising the observance of laws during the pre-trial investigation, in the form of procedural guidance.

118. At the same time, the conducting of ATO makes it difficult to perform the necessary investigation (search) and procedural actions aimed at the full and impartial investigation of criminal offences, establishing those responsible and bringing them to justice.