



# **SPECIAL REPORT**

**of the Ukrainian Parliament Commissioner  
for Human Rights**

On Prevention of Torture and Other Cruel, Inhuman or  
Degrading Treatment or Punishment in Ukraine in 2023



**Ombudsman of Ukraine**





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in Ukraine in 2023**

KYIV – 2024

*The special report of the Ukrainian Parliament Commissioner for Human Rights “On Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Ukraine in 2023” was compiled pursuant to Article 19-1 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” and Article 23 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

*The report contains the results of monitoring the observance of the rights of man and citizen in places of detention, including in the context of the full-scale armed aggression of the Russian Federation against Ukraine, the causes and context of such violations, and recommendations for their elimination.*

*The report is addressed to the Verkhovna Rada of Ukraine, the President of Ukraine and the Cabinet of Ministers of Ukraine and is to be published in the media.*

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# **LIST OF ABBREVIATIONS**

<b>FLA</b>	Free legal aid
<b>WHO</b>	World Health Organisation
<b>MDNP</b>	Main Department of the National Police of Ukraine
<b>CCHs</b>	Children’s care home
<b>SBN</b>	State Building Norms
<b>SSUFSCP</b>	State Service of Ukraine on Food Safety and Consumer Protection
<b>SMDC</b>	State Service of Ukraine on Medicines and Drugs Control
<b>DICE</b>	Disciplinary cell
<b>SPSU</b>	State Penitentiary Service of Ukraine
<b>SMS</b>	State Migration Service of Ukraine
<b>SJA</b>	State Judicial Administration of Ukraine
<b>SES</b>	State Emergency Service of Ukraine
<b>SI</b>	State institution
<b>SMT</b>	Substitution maintenance therapy
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
<b>URPTI</b>	Unified Register of Pre-Trial Investigations
<b>ECtHR</b>	European Court of Human Rights
<b>TDF</b>	Temporary detention facility
<b>CMU</b>	Cabinet of Ministers of Ukraine
<b>RD</b>	Room for detainees
<b>CrCU</b>	Criminal Code of Ukraine
<b>CEC</b>	Criminal Executive Code of Ukraine
<b>CrPCU</b>	Criminal Procedure Code of Ukraine
<b>CMM</b>	Compulsory medical measures
<b>CTR (SC)</b>	Cell-type room (solitary confinement)
<b>MIA</b>	Ministry of Internal Affairs of Ukraine
<b>MSP</b>	Ministry of Social Policy of Ukraine
<b>MoH</b>	Ministry of Health of Ukraine
<b>MES</b>	The Ministry of Education and Science of Ukraine
<b>MoJ</b>	Ministry of Justice of Ukraine
<b>NSSU</b>	National Social Service of Ukraine
<b>MoD</b>	Ministry of Defence of Ukraine
<b>MYS</b>	Ministry of Youth and Sports of Ukraine
<b>MCIP</b>	Ministry of Culture and Information Policy of Ukraine
<b>NHSU</b>	National Health Service of Ukraine
<b>NPM</b>	National Preventive Mechanism
<b>OMA</b>	Oblast Military Administration(s)
<b>OC</b>	Oblast Council
<b>RF</b>	Russian Federation
<b>PTDF</b>	Pre-trial detention facility
<b>Commissioner’s Secretariat</b>	Secretariat of the Ukrainian Parliament Commissioner for Human Rights
<b>PNCHs</b>	Psycho-neurological care home
<b>TOT</b>	Territory (territories) of Ukraine temporarily occupied by the Russian Federation
<b>PI</b>	Penitentiary institution
<b>PD</b>	Police departments
<b>Commissioner</b>	Ukrainian Parliament Commissioner for Human Rights
<b>CPCU</b>	Civil Procedure Code of Ukraine



# **OPENING STATEMENT**

## OPENING STATEMENT OF THE UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS

Despite the armed aggression and the challenges arising from it, Ukraine fulfils its international obligations, in particular in preventing torture and other inhuman treatment. This is extremely important for us.

The implementation of the NPM functions under the Optional Protocol to the Convention against Torture and the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places where persons deprived of their liberty are or may be detained is one of the areas of my work as the Ombudsman of Ukraine.

In 2023, we made 538 visits to places of custody and revealed violations of the rights to freedom and personal inviolability, healthcare, and protection from torture and other cruel treatment.

Following the visits, the NPM sent 140 submissions on eliminating violations of fundamental rights of man and citizen to public authorities, local governments, associations of citizens, enterprises, institutions, and organisations irrespective of the form of ownership and their officials and employees.

We revealed cases of beatings, cruel treatment and other human rights violations that the ECtHR equates to torture.

For example:

- Right to freedom and personal inviolability
- Right to life and safe detention conditions
- Violation of space standards in the cells and living premises for prisoners and convicts
- Adverse effects of informal prison hierarchy, etc.

With my assistance, competent authorities are investigating 26 criminal proceedings on inadequate treatment of prisoners and convicts.

In addition, we visited a camp for the Russian prisoners of war in 2023. Detention conditions of these persons comply with the Geneva Convention relative to the Treatment of Prisoners of War.

Due to constant shelling, the Commissioner’s Secretariat has limited access to some places of custody, especially those in the vicinity of active hostilities.



We have prepared a Special Report “On Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Ukraine in 2023,” which contains 8 sections and covers information on violations of fundamental rights of man and citizen in places of custody under the jurisdiction of the MoJ of Ukraine, the MIA of Ukraine, the MoD of Ukraine, the MoH of Ukraine, and the MSP of Ukraine, human rights violations in the administration of justice, and problems of ensuring rights of man and citizen in non-state-owned care homes for the elderly and persons with disabilities. The information used in the Report was obtained and collected during visits to places of custody by NPM groups of the Ombudsman’s Office, as well as from ministries, other central executive authorities, and the OMA.

Even during martial law, the NPM of Ukraine continues to fulfil its function to prevent torture and other cruel, inhuman or degrading treatment or punishment.

*Ukrainian Parliament Commissioner for Human Rights  
Dmytro LUBINET'S*



# INTRODUCTION

The prohibition of torture, inhuman and degrading treatment or punishment is declared in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>1</sup> (hereinafter referred to as the “Convention”). The absolute prohibition of torture, inhuman and degrading treatment or punishment is a peremptory norm with no exceptions. As the ECtHR consistently emphasises in its decisions, it reflects one of the fundamental values of a democratic society.

The 1948 Universal Declaration of Human Rights (Article 5) and the 1950 Convention (Article 3) were the first international documents to prohibit torture. In 1984, the UN adopted a special document on the absolute prohibition of torture – the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the “Convention against Torture”). Most common international legal instruments in the field of human rights prohibit torture.

For several decades, the international community has been trying to affect the problem of torture and other cruel treatment, adopting various legal acts to combat torture and establish relevant institutions able to perform these functions.

Article 3 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates: “Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.”

The NPM was launched in Ukraine in 2012, 6 years after the state ratified the Optional Protocol to the Convention against Torture. Ukraine received a mechanism that made it possible to visit regularly all places of custody without warning.

The NPM provides for visiting any place under the jurisdiction and control of the state where persons deprived of their liberty are or may be detained, by order of or at the direction of public authority, or with its knowledge or tacit consent.

In 2012, amendments to the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”<sup>2</sup> vested the functions of the NPM to the Commissioner (Article 19-1 of the Law).

The Department for Implementation of the NPM – a separate structural unit on the prevention of torture and other cruel, inhuman or degrading treatment or punishment was established within the Commissioner’s Secretariat.

The Ombudsman+ model, which assumes that not only the Commissioner is involved in the process of monitoring the observance of human rights in places of custody but also representatives of NGOs, who, after being granted certain rights by the Commissioner, can attend and monitor places of custody, the state of observance of human rights and freedoms in places of custody, and record certain problems, if any, operates in Ukraine.

In 2023, the Commissioner gave 177 instructions to NGO representatives to attend the places of custody.

The Commissioner responds to each violation of human rights, freedoms and legal interests in accordance with the powers defined by the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”: from sending submissions on violations of the Constitution of Ukraine, laws of Ukraine and international treaties of Ukraine on the rights of man and citizen and freedoms to public authorities, local governments, associations of citizens, enterprises, institutions, organisations irrespective of the form of ownership and their officials and employees, to reporting a criminal offence.

As a result of his activities, the Commissioner annually prepares a special report on the prevention of torture and other cruel, inhuman or degrading treatment or punishment in Ukraine. This report is made public in the media and sent to the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine in compliance with the legislation of Ukraine on information.

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<sup>1</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (including Protocols) (European Convention on Human Rights): [https://zakon.rada.gov.ua/laws/show/995\\_004#Tex](https://zakon.rada.gov.ua/laws/show/995_004#Tex).

<sup>2</sup> Law of Ukraine “On Amendments to the Law of Ukraine ‘On the Ukrainian Parliament Commissioner for Human Rights’ Regarding the National Preventive Mechanism”: <https://zakon.rada.gov.Ua/laws/show/5409-17#n26>.

# **SECTION 1**

**OBSERVANCE OF  
CONSTITUTIONAL RIGHTS  
AND FREEDOMS OF MAN  
AND CITIZEN IN PLACES OF  
CUSTODY DURING THE  
LEGAL REGIME OF MARTIAL  
LAW**

## 1.1. Performance of the NPM of Ukraine during the Legal Regime of Martial Law

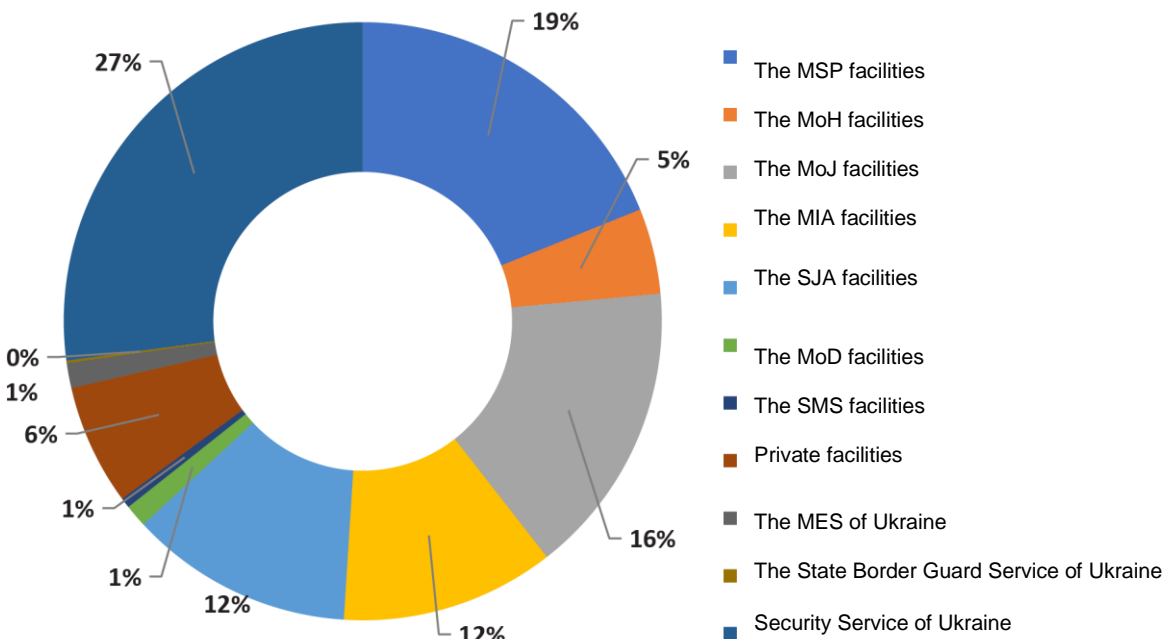
To ensure the exercise of the Commissioner’s powers in the field of parliamentary control over the observance of the right to protection from torture and other cruel, inhuman or degrading treatment or punishment, 538 visits to places of custody were made in 2023 together with representatives of NGOs. The Commissioner’s Secretariat visited 740 places of custody in different parts of Ukraine during martial law in Ukraine.

There are 3,770 places of custody on the territory of Ukraine, which the Commissioner can visit without prior notice of the time and purpose of the visit in accordance with clause 8 of Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights.”

In 2023, the Commissioner’s Secretariat visited places of custody of the following institutions:

- The MSP – 139
- The SJA – 89
- The MoH – 34
- The MES – 10
- The MoJ – 117
- The MIA – 85
- The SMS – 4
- The State Border Guard Service of Ukraine – 1
- The MoD – 9
- The Security Service of Ukraine – 2
- Private facilities – 48

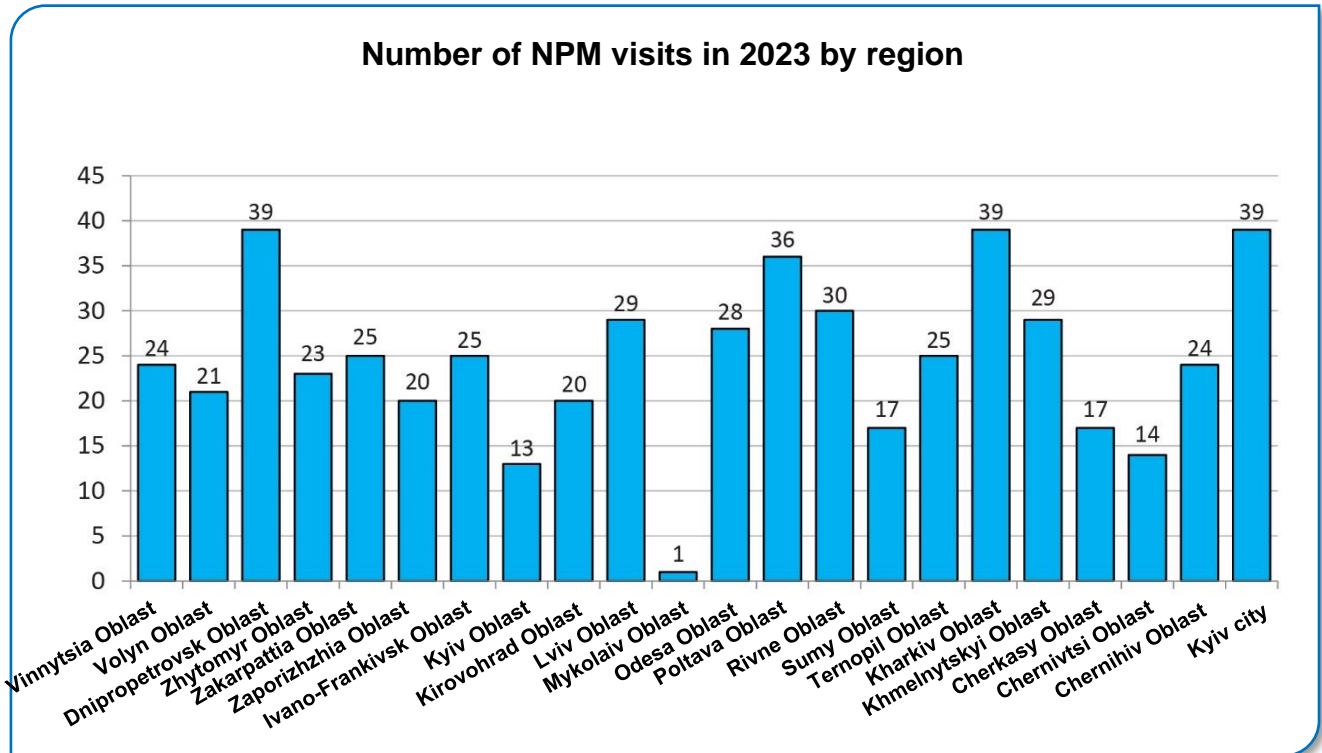
**In 2023, the NPM made 538 visits to various places of custody, namely:**





206 visits were made by the Department staff and 332 visits by employees of the Division for Supporting Operations of Regional Offices.

The number of visits by region is as follows: Vinnytsia Oblast – 24, Volyn Oblast – 21, Dnipropetrovsk Oblast – 39, Zhytomyr Oblast – 23, Zakarpattia Oblast – 25, Zaporizhzhia Oblast – 20, Ivano-Frankivsk Oblast – 25, Kyiv Oblast – 13, Kirovohrad Oblast – 20, Lviv Oblast – 29, Mykolaiv Oblast – 1, Odessa Oblast – 28, Poltava Oblast – 36, Rivne Oblast – 30, Sumy Oblast – 17, Ternopil Oblast – 25, Kharkiv Oblast – 39, Khmelnytskyi Oblast – 29, Cherkasy Oblast – 17, Chernivtsi Oblast – 14, Chernihiv Oblast – 24, and Kyiv City – 39.



The visits detected systemic violations of the rights and freedoms of man and citizen in places of custody, including:

- Right to protection from torture, cruel or degrading treatment or punishment
- Right to an adequate level of life
- Right to freedom and personal inviolability
- Right to healthcare, medical aid and medical insurance
- Right to life and safe detention conditions
- Right to work and protection from exploitation
- Right to professional legal aid
- Right to maintain contact with the outside world
- Right to work and protection from exploitation and other violations of the rights of convicts
- Rights of persons with disabilities and reduced mobility

To eliminate violations of the rights and freedoms of man and citizen identified during the NPM visits in 2023, the Commissioner sent 140 submissions to public authorities, local governments, associations of citizens, enterprises, institutions, organisations irrespective of the form of ownership and their officials and employees, to take relevant measures to eliminate the identified violations.

Upon the consideration of submissions, 55 officials of institutions were brought to disciplinary responsibility.

The Department for Implementation of the NPM has introduced the practice of providing daily information on human rights violations in places of custody or information that there are no such cases, as well as immediate notifying of each case of torture and other cruel, inhuman or degrading treatment or punishment from the MoJ of Ukraine, the SMS of Ukraine, the State Border Guard Service of Ukraine, the STA of Ukraine, the Economic Security Bureau of Ukraine, and the OMA (in coordination with raion state administrations and territorial communities).

After processing current information and considering complaints and appeals about facts with elements of possible criminal offences, data was entered into the URPTI and 26 criminal proceedings, in particular under Articles 127 (Torture), 189 (Extortion) and 365 (Excess of authority or official powers by a law enforcement officer) of the CrCU, were instituted in 2023 at the Commissioner's initiative.

As a result of studying aggregated daily information from the SPSU's headquarters, the NPM Department initiated 22 official investigations into the suicide, bodily injuries and death of convicts that the management of the institutions had ignored. As a result of official investigations, 62 officials were brought to disciplinary responsibility.

The Commissioner shall take all possible measures provided by law to prevent torture and other cruel, inhuman or degrading treatment and punishment:

- Response to systemic violations of the rights and freedoms of man and citizen
- Monitoring of facts and cases of ill-treatment in places of custody published in the media, resulting in unscheduled visits to these places
- Implementation of the CPT recommendations
- Application of the ECtHR judgments in practice and focus on it

The practice of informing the National Police of Ukraine and the State Bureau of Investigation of facts with elements of possible criminal offences discovered during visits to places of custody has been introduced.

The area of the NPM work in Ukraine in preventing, detecting and suppressing any manifestations of violations and disrespect for human rights and freedoms, discrimination, torture, and other inhuman treatment and punishment remains unchanged and is constantly being improved.

## 1.2. Main Activities of the NPM of Ukraine in 2023

The NPM operates in compliance with principles of the rule of law – ensuring the priority of the rights and freedoms of man and citizen in accordance with the [Constitution of Ukraine](#)<sup>3</sup>, legality, impartiality, and transparency in close cooperation with public authorities, local governments, civil society and international partners.

In 2023, visits by NPM groups to the institutions of the MoJ system remained one of the priorities given the wide range of rights that the administrators at the SPSU institutions must ensure, the high capacity of these institutions and long periods of detention.

As the experience of previous years shows, most violations of the rights of prisoners and convicts were committed in the SPSU institutions, in particular:

- Violation of the right to decent conditions for detention (violation of space standards per prisoner)
- Violation of the right to privacy
- Violation of the right to life (violation of the fire safety regulations)
- Violation of the right to contact with the outside world, etc.

<sup>3</sup> Constitution of Ukraine: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

Visits to non-state social care facilities, in particular private care homes for elderly people and persons with disabilities, were also the NPM's priority in 2023. Privacy and isolation of private care homes, in particular to the public, leads to the helplessness of wards and the violation of their rights. The lack of regulation of the activities of such facilities as a separate one, and their failure to enter providers and recipients of social services into the relevant Register, are the reasons for numerous violations in their activities. This results in a lack of mechanisms for state control over their activities and termination of activities of entities violating legal norms.

Ensuring the rights of persons in mental health facilities is still important and problematic. As part of NPM, the NPM groups with the involvement of healthcare specialists, namely psychiatrists, visited 23 mental health facilities, including specialised ones, to examine the conditions of patients subject to involuntary hospitalisation and CMM. The visits identified some problems that lead to violations of the rights of persons in these facilities, including the right to protection from torture, cruel, inhuman or degrading treatment, healthcare and medical aid, decent conditions for detention, etc.

An important NPM area of activity is dialogue with international organisations, active communication with international partners and institutions, and participation in international events.

The NPM's activity involves cooperation and stable communication with international partners, primarily the UN Subcommittee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment of the Committee against Torture established under the Optional Protocol to the Convention against Torture, as well as international organisations and relevant bodies of foreign countries whose activities are related to this area.

The Commissioner's Representative for Human Rights in Places of Custody participated in some international events in 2023.

The delegation of the Ombudsman's Office consisting of the Commissioner's Representative for Human Rights in Places of Custody took part in the events of the OSCE Supplementary Human Dimension Meeting II "Torture and Other Grave Breaches of International Humanitarian Law and Gross Violations of International Human Rights Law" (Vienna). Before the main session, the delegation took part in a side event "Torture in Official and Unofficial Places of Detention in Ukraine under the Russian Occupation" organised by Ukraine without Torture NGO and the Danish Institute against Torture DIGNITY.

During the session "Grave Breaches of International Humanitarian Law and Related Obligations" of the OSCE Supplementary Human Dimension Meeting II, the Commissioner's Representative for Human Rights in Places of Custody spoke about the collected significant number of facts and evidence of gross violations of international humanitarian law to treatment of prisoners of war and civilians by the aggressor, which constitutes a violation of the Geneva Conventions.

The regional meeting of NPMs and Civil Society Organisations of the OSCE region on mental health in detention brought together profile experts from more than 50 countries in Copenhagen. Particular attention was paid to the psychological health of NPM monitoring officers, who help people without compromising their mental and physical health. During the discussion, the Commissioner's representative spoke about the challenges faced by the Ukrainian NPM as a result of Russian armed aggression against our country and the practices used by the Ombudsman's Office in its activities.

Ukraine was also represented at the 14th International Conference of the Global Alliance of National Human Rights Institutions (GAHNRI) – "Torture and Other Forms of Ill-Treatment: the Role of National Human Rights Institutions." The conference included an exchange of experience and best practices on preventing torture and other forms of ill-treatment, discussions on human rights protection and the organisation of NPM models around the world.

At a side event of the OSCE (the Organisation for Security and Co-Operation in Europe) Warsaw Human Dimension Conference, several bilateral meetings with the heads of the delegations of the United States, France and Germany and the Director of the OSCE/ODIHR took place. The plenary session of the OSCE Warsaw Human Dimension Conference on the prevention and eradication of torture was participated. The participants were informed about the main achievements and results of the NPM functioning as one of the most effective mechanisms for eradicating such a shameful phenomenon as torture.

The Commissioner invited the participants on behalf of the institution to support the implementation of point 4 of the [President of Ukraine’s](#) Peace Formula, which provides for the returning home of all Ukrainians illegally held in the Russian Federation and on the TOT.

Cooperation with non-governmental, charitable and international organisations is an integral part of NPM activities in Ukraine.

The Advisory Council on NPM Implementation at the Commissioner provides professional advice to support the Commissioner’s performance of the NPM functions under the Optional Protocol. The Advisory Board consists of 33 members, including 28 representatives of the most influential and reputable organisations with experience in the field of rights and freedoms of man and citizen.

In 2023, the Advisory Board held four meetings, which resulted in amendments and additions to the Rules of the Organisation and regular visits to places of custody to perform NPM functions; the introduction of the Regional NPM Groups pilot project, which provides for re-visits to social places of custody by public monitoring officers; and improvement of the NPM function performance in Ukraine.

Representatives of NGOs, experts, scientists, and specialists engaged by the Commissioner to perform the NPM functions visit places of custody based on a specific written order of the Commissioner and may interview persons held there to obtain information about their treatment and detention conditions. In 2023, the Commissioner issued 177 orders to NGO representatives to visit places of custody.

### 1.3. Impact of the Armed Aggression against Ukraine on Persons in Places of Custody

The armed aggression against Ukraine has affected all spheres of Ukrainian society and human rights: the right to life, freedom and personal inviolability, etc.

International human rights organisations and Ukrainian law enforcement agencies have documented thousands of violations of the rights of civilians and military personnel.

In the second year of Russian full-scale aggression against Ukraine, massive shelling of civilian objects and critical infrastructure, including places of detention with varying degrees of destruction and damage, continued. Challenges related to the safety of persons in places of detention, their relocation, and evacuation are still relevant.

According to the State Border Guard Service of Ukraine, it operates 56 temporary detention facilities (hereinafter referred to as the “TDF”) designed for the simultaneous detention of 358 people. As a result of Russian open aggression and imposition of martial law, 39 TDFs have been suspended, including 8 in the TOT in Kharkiv, Luhansk, Kherson, and Zaporizhzhia Oblasts.

In 2023, the blast damaged the Mykolaiv temporary detention facility for foreigners and stateless persons as a result of falling fragments of a downed missile on its adjacent territory. Information about this incident was entered into the URPTI. The investigation is being conducted by the SSU Office in Mykolaiv Oblast.

According to the National Police of Ukraine, as of 31 December 2023, operations of 28 out of 109 TDFs were suspended (9 – due to reconstruction and repair, 3 – the issue of their liquidation or repair is being resolved, 6 – due to hostilities, 4 are destroyed (partially destroyed) during the Russian armed aggression in Ukraine, and 6 are located in the TOT). 88 TDFs continue to operate.

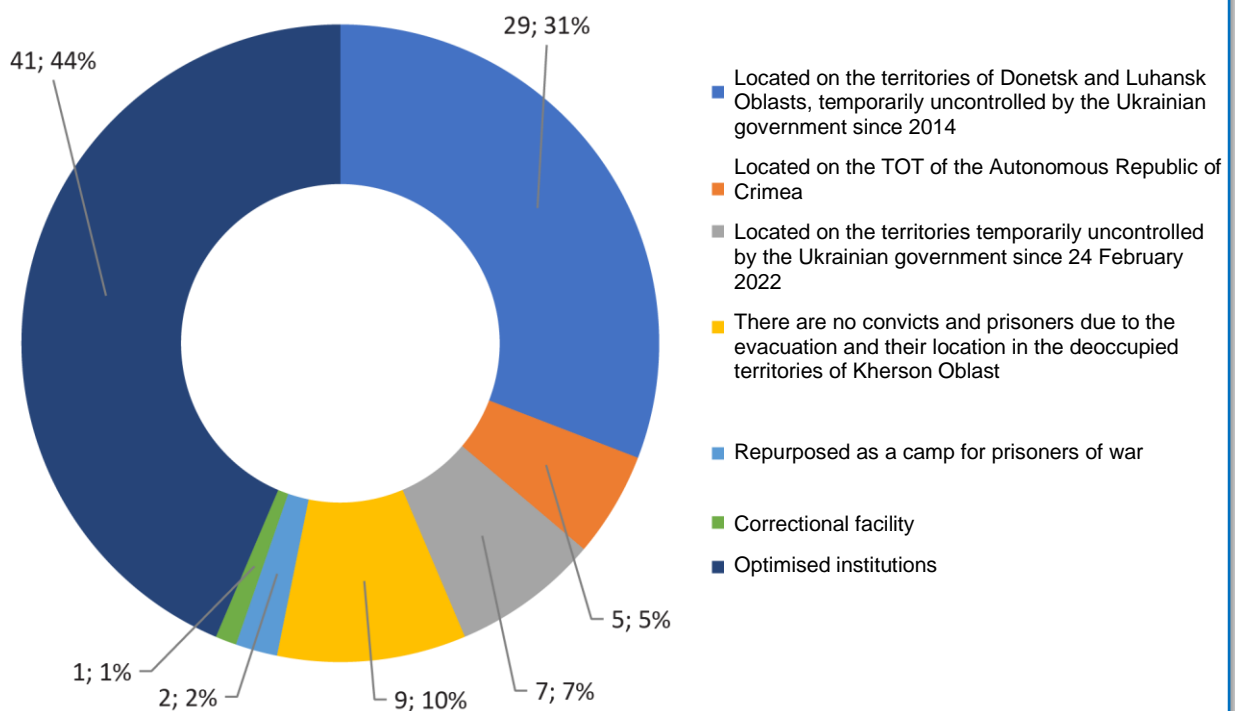
According to the MoJ, there are 182 PI in the SPSU structure.

As of 31 December 2023, the following institutions do not operate:

- 29 PI located on the territories of Donetsk and Luhansk Oblasts, temporarily uncontrolled by the Ukrainian government since 2014
- 5 institutions on the TOT of the Autonomous Republic of Crimea
- 7 PI located on the territories temporarily uncontrolled by the Ukrainian government since 24 February 2022
- 9 PI have no convicts and prisoners due to the evacuation and their location in the deoccupied territories of Kherson Oblast
- 2 PI was repurposed as a camp for prisoners of war
- 1 correctional facility

41 PIs have no convicts due to the optimisation of their activities

**Information on penitentiary institutions that do not operate as of 31 December 2023**



The problems that the Ukrainian prison system has been working on became acute during the hostilities. In particular, the administration of institutions in the epicentre of hostilities faced acute issues with the supply of drinking water, heat and power, and interruptions of telephone and internet connection. Institutions of the southern region had problems with mobile communication of the Ukrainian operators. Institutions in the combat zone experienced difficulties with the delivery of food and medicines directly to the institutions. Some suppliers of heating resources (coal and firewood) failed to fulfil their obligations.

To address these issues, the SPSU has established a humanitarian coordination centre for the collection and distribution of humanitarian aid to the prison infrastructure and continues to cooperate with international and Ukrainian charitable and volunteer organisations.

As of 31 December 2023, the Healthcare Centre of the SPSU includes 99 healthcare institutions, in particular 5 specialised tuberculosis hospitals, 7 multidisciplinary hospitals, 83 medical units, and 4 rural health posts.



In 2023, Sofiiivka Specialised Tuberculosis Hospital No. 55, Vilniansk Psychiatric Hospital No. 20 of the branch of the SPSU Healthcare Centre in Zaporizhzhia Oblast, Kherson City Medical Unit, and the Central Clinical Diagnostic Laboratory of the branch of the SPSU Healthcare Centre in Kherson Oblast were liquidated. The Dnipro City Medical Unit was merged with Dnipro Multidisciplinary Hospital No. 4 of the branch of the SPSU Healthcare Centre in Dnipropetrovsk and Donetsk Oblasts, and Medical Unit No. 98 was merged with Multidisciplinary Hospital No. 98 of the branch of the SPSU Healthcare Centre in Khmelnytskyi Oblast. Medical Unit No. 55 of the branch of the SPSU Healthcare Centre in Zaporizhzhia Oblast was established.

There are Medical Unit No. 2, Medical Unit No. 82, and Bakhmut City Medical Unit of the branch of the SPSU Healthcare Centre in Dnipropetrovsk and Donetsk Oblasts in the combat zone.

There are Medical Unit No. 107, Mariupol City Medical Unit of the branch of the SPSU Healthcare Centre in Dnipropetrovsk and Donetsk Oblasts, Medical Unit No. 145, Medical Unit No. 144 of the branch of the SPSU Healthcare Centre in Zaporizhzhia Oblast, Starobilsk City Medical Unit of the branch of the SPSU Healthcare Centre in Kharkiv and Luhansk Oblasts, Hola Prystan Specialised Tuberculosis Hospital of the branch of the SPSU Healthcare Centre in Kherson Oblast on the TOT.

According to the SJA, the number of courts whose territorial jurisdiction was changed due to the inability to administer justice during martial law is 112, including 13 in Donetsk Oblast, 18 in Zaporizhzhia Oblast, 16 in Luhansk Oblast, 1 in Sumy Oblast, 9 in Kharkiv Oblast, 19 in Kherson Oblast and 36 in the Autonomous Republic of Crimea.

As a result of constant missile attacks, 15 courthouses were destroyed and 116 premises of judicial institutions were partially damaged: windows are broken, some of them have no power, heat, water, and gas supply, ceilings, courtrooms and internal doors are damaged, internal walls between offices are destroyed, etc. The most damaged/destroyed premises are in Kharkiv, Donetsk, Kherson, and Mykolaiv Oblasts.

According to the MSP of Ukraine, as of 31 December 2023, the number of places of custody in the social protection system was 452, in particular 139 PNCHs, 34 geriatric homes, 33 care homes for elderly people and persons with disabilities, 7 care homes for war and labour veterans, 8 social rehabilitation centres, 10 child care centres, 36 children's care homes, 4 shelters for children, 1 orphanage, 6 centres for social rehabilitation of children with disabilities, 95 centres for social and psychological rehabilitation of children, 5 general education schools and vocational schools for social rehabilitation, 60 private care homes for the elderly, and 14 private rehabilitation centres for people with alcohol, drug and other forms of addiction, with 43,400 persons living in them.

According to the NSSU, as of 1 January 2022, 245 residential social care institutions with 37,899 wards were operating in the regions of Ukraine. As of 17 January 2024, temporary displacement (evacuation) of 4,595 people from 41 residential institutions was ensured (12.1% of the total number of all people staying in residential institutions as of 1 January 2022): 3,719 persons were relocated to residential institutions in other oblasts, and 876 persons moved abroad.

Destruction of social facilities:



According to the information provided by the MSP on places of custody affected by Russian armed aggression against Ukraine, seven institutions subordinated to the MSP were partially damaged: Municipal Institution "Vyschetarasivka PNCH" of Dnipropetrovsk OC;

Municipal Institution “Illinka PNCH” of Dnipropetrovsk OC; Municipal Institution “Mariupol Care Home for Elderly People and Persons with Disabilities No. 2”; Municipal Institution “Bakhmut PNCH”; Municipal Institution “Komyshivka PNCH”; Municipal Institution “Druzhkivka CCH”; and Social Service Centre of Marhanets City Council. Active hostilities and location on the TOT make it impossible for these institutions to function properly, and 1,317 persons were evacuated therefrom.

14 institutions subordinated to the MSP were partially destroyed: Municipal Institution “Komyshivka PNCH”; Municipal Institution “Mariupol Care Home for Elderly People and Persons with Disabilities No. 2”; Municipal Institution “Bakhmut PNCH”; Municipal Institution “Druzhkivka CCH”; Municipal Institution “Tavriiske PNCH with Geriatric Department” of Zaporizhzhia OC; Municipal Institution “Svesa PNCH” of Sumy OC; Municipal Institution “Bilopillia CCH”; Municipal Institution “Oskilskyi PNCH”; Municipal Institution “Kupiansk PNCH”; Municipal Institution “Lyptsi PNCH”; Municipal Institution “Vovchansk Special Care Home”; Municipal Institution “Vovchansk Geriatric Home”; Pushcha-Vodytsia PNCH; and Kyiv PNCH. Active hostilities and location on the TOT make it impossible for these institutions to function properly, and 2,078 persons were evacuated therefrom.

Six institutions subordinated to the MSP were completely destroyed due to Russian armed aggression: Municipal Institution “Lyman Care Home for Elderly People and Persons with Disabilities”; Municipal Institution “Popasnianskyi Oblast PNCH”; Nyzhnianskyi Oblast PNCH; Lupareve PNCH; Municipal Institution of Sumy OC “Atynskyi PNCH”; Municipal Institution of Kherson OC “Kherson Psycho-Neurological Care Home”; and Kyiv Care Home for Labour Veterans. 360 persons were evacuated from these institutions.

Three persons staying in these institutions were affected by Russian armed aggression.

According to information, 20 out of 71 persons staying in the Municipal Institution “Kreminskyi Oblast Care Home for Elderly People and Persons with Disabilities” were relocated to the Svatove Oblast Care Home for Elderly People and Persons with Disabilities. As the institution is located on the TOT, it is not possible to confirm the whereabouts or deaths of 51 persons who were not relocated to Svatove Oblast Care Home for Elderly People and Persons with Disabilities.

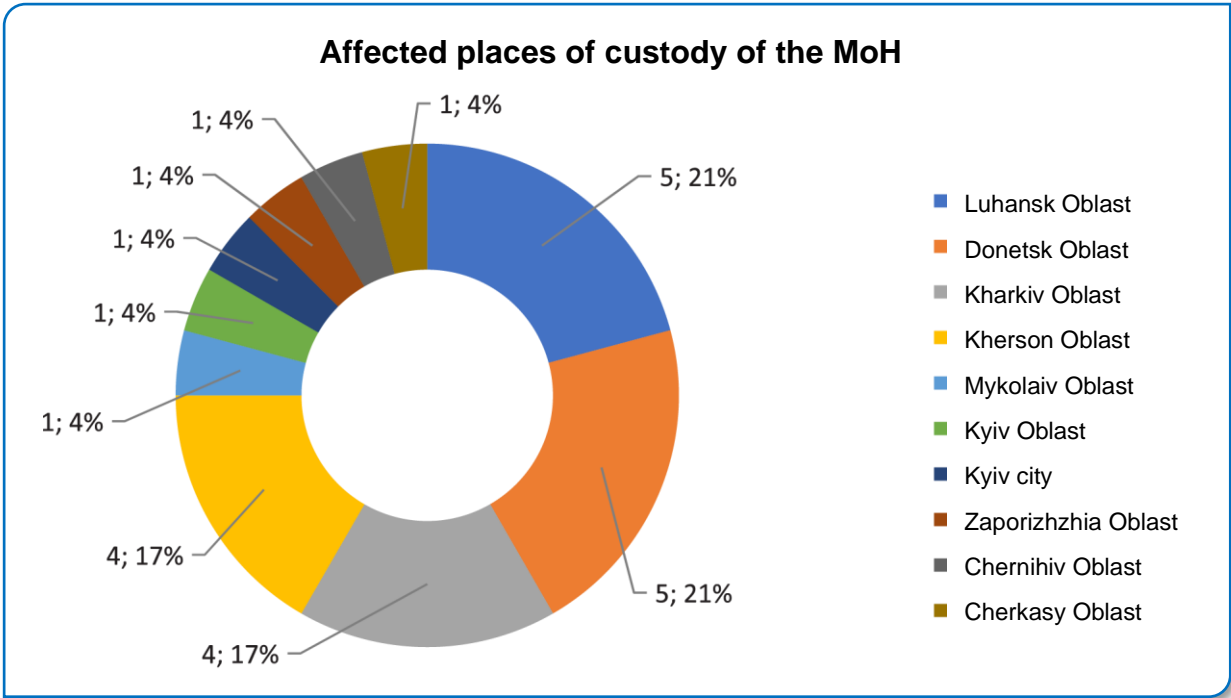
According to the MoH, 19 persons who were treated in Municipal Non-Profit Enterprise “Kherson Oblast Mental Health Facility of Kherson OC” were relocated to the Dnipro branch of “Special Mental Health Facility” of the SI “Institute of Forensic Psychiatry of the MoH of Ukraine” (hereinafter referred to as the “Special Institution, Branch”). Staying near the combat zone harmed the mental health of people with mental disorders. Staff psychologists provided first aid to all displaced persons in the Branch. Employees of the Branch’s Human Rights Department met individually with each of them to provide psychiatric care, and they received individual humanitarian assistance from volunteer organisations.

The places of custody of the MoH were also damaged.

According to the MoH, as of late 2023, the possibility of damage to 1,626 facilities and 644 healthcare institutions as a result of Russian armed aggression against Ukraine was confirmed.

24 places of custody subordinated to the MoH were damaged due to Russian armed aggression against Ukraine, namely in:

- Luhansk Oblast – 5 (2 psychiatric hospitals, 2 psychiatric departments and 1 child care centre)
- Donetsk Oblast – 5 (2 psychiatric hospitals, 1 tuberculosis department and 2 centres for prevention and treatment of addiction)
- Kharkiv Oblast – 4 (1 child care centre and 3 psychiatric hospitals)
- Kherson Oblast – 4 (a psychiatric hospital, palliative department, tuberculosis and psychiatric departments)
- Mykolaiv Oblast – 1 (a child care centre)
- Kyiv Oblast – 1 (a psychiatric hospital)
- Kyiv city – 1 (tuberculosis department)
- Zaporizhzhia Oblast – 1 (a psychiatric hospital)
- Chernihiv Oblast – 1 (a psychiatric hospital)
- Cherkasy Oblast – 1 (a psychiatric hospital)



According to the information provided by the MoJ on places of custody affected by Russian armed aggression against Ukraine, 22 PI were destroyed, and 15 PI suffered minor destruction and damage to property and partial destruction of buildings. Among them, Pivnichna Correctional Colony No. 90, Toretsk Correctional Colony (No. 2), and Selidove Correctional Colony (No. 82) suffered considerable damage.

Druzheliubivka Correctional Centre (No. 1) and Orikhiv Correctional Colony (No. 88) are unsuitable for further use.

The buildings of Sofiivska Correctional Colony (No. 55) were partially destroyed. Bakhmut PI (No. 6) is located on the TOT.



The ongoing armed conflict of the RF against our country continues to adversely affect all spheres of human life.



Although the RF is a state party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War<sup>4</sup>, it continues to violate it in unprecedented ways.

The RF continues to violate the rights of Ukrainians to life, freedom, personal inviolability, and safety. Residents on the TOT suffer from ill-treatment and violence every day. The RF kills many people, thereby violating Article 3 of the Geneva Convention relative to the Treatment of Prisoners of War, which prohibits cruel or degrading treatment.

Residents of the occupied peninsula of the Autonomous Republic of Crimea are subjected to significant harassment.

The Representative of the President of Ukraine in the Autonomous Republic of Crimea constantly emphasises mass human rights violations in his briefs on the general situation and alleged international crimes in the TOT of the Autonomous Republic of Crimea and the city of Sevastopol during a new stage of Russian armed aggression on the territory of Ukraine, which are sent to the Commissioner's Secretariat.

In the context of a new stage of Russian armed aggression on the territory of Ukraine since 24 February 2022, the Mission monitors and collects information (from open sources and testimonies of people) every week on alleged violations of international humanitarian law and evidence of aggressor state's aggressive policy in the TOT of the Autonomous Republic of Crimea and the city of Sevastopol.

As stated in the Brief of the Representative of the President of Ukraine in the Autonomous Republic of Crimea on the general situation and alleged international crimes in the TOT of the Autonomous Republic of Crimea and the city of Sevastopol during a new stage of Russian armed aggression on the territory of Ukraine, "hunting for activists and citizens of Ukraine who do not agree with the regime and actions of the aggressor state continues on the temporarily occupied Crimean Peninsula. The Crimean justice keeps imposing large administrative fines on such persons and penalties related to imprisonment."

There are reports of the deterioration of the health of Ukrainian citizens deprived of their liberty for political reasons. Citizens need urgent medical aid and complain about doctors' inaction, conditions of detention in PTDFs, high humidity and low temperature in the cells.

Persecution and pressure on Ukrainian citizens continue.

According to the summarising of collected information on the observance of international humanitarian law due to armed aggression against Ukraine by the Ministry of Reintegration of the TOT of Ukraine from 2014 to 2023, there have been gross violations of international humanitarian law and international human rights law in the TOT of Ukraine since the beginning of the international armed conflict between Russia and Ukraine.

Violations of customary and conventional international humanitarian law and international human rights law, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights<sup>5</sup>, have been recorded.

The invaders systematically violated the principle of distinction and the prohibition of the use of human shields, and illegally mobilised local civilians into the occupation forces. There were also systematic violations of security and law and order, illegal displacement of the population, forced issue of passports and political agitation.

There were reports of ill-treatment of prisoners, deterioration of the health of Ukrainian citizens deprived of their liberty for political reasons, and ongoing pressure on them. They do not receive adequate medical aid. Relatives do not know where the prisoners are. They are forbidden to receive and send letters, communicate with their relatives, transfer medicines, and are subjected to beatings.

Detention facilities must be provided with protective structures to ensure the right to life and security in accordance with Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 27 of the Constitution of Ukraine, the Procedure for the Creation and Maintenance of the Fund of Civil Defence Facilities, Their Exclusion from the Fund and Keeping Its Records approved by Resolution of the Cabinet of Ministers of Ukraine No. 138 of 10 March 2017, and the Requirements for the Maintenance and Operation of Civil Defence Facilities approved by Order of the Ministry of Internal Affairs of Ukraine No. 579 of 9 July 2018.

<sup>4</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War: [https://zakon.rada.gov.ua/laws/show/995\\_154#Text](https://zakon.rada.gov.ua/laws/show/995_154#Text).

<sup>5</sup> International Covenant on Civil and Political Rights: [https://zakon.rada.gov.ua/laws/show/995\\_043#Text](https://zakon.rada.gov.ua/laws/show/995_043#Text).

Protective structures include a shelter – a sealed protective structure that for a certain time ensures conditions excluding hazardous exposure arising from an emergency, military (combat) actions and acts of terrorism, and the simplest [shelters](#) – a fortification, ground floor or basement, or other underground structure where people can temporarily stay to reduce combined damage from hazards and munition impact during the special period.

During the visits, the NPM groups detected violations of the availability of protective structures for sheltering detainees.

Places of custody designated as shelters do not meet the requirements approved by Order of the MIA of Ukraine No. 579 of 9 July 2018 “On Approval of Requirements for the Use and Accounting of the Fund of Civil Defence Facilities.”<sup>6</sup>

According to the MoJ, as of December 2023, the SPSU fund of civil defence facilities includes 293 protective structures ready for their intended use, including 22 shelters, 121 radiation shelters, and 150 simplest shelters and double-purpose structures, which shelters 94.5% of the staff of the SPSU PIs and PTDFs and 78.4% of convicts and remanded persons who need to be sheltered.

To ensure that the existing fund of protective structures is ready for its intended use, additional inspections of the facilities of the fund of civil defence facilities were carried out in all institutions involving staff of the SI “General Directorate of the SPSU” and the SES in August 2023. Based on the results of the inspections, the relevant reports, defect certificates and cost-estimating documents for current and major repairs of protective structures were drawn up. 141 commission inspections of buildings, structures, and premises of institutions were conducted to determine whether they could be used as simplest shelters to protect personnel and other persons to be sheltered. 134 premises with a capacity of 48,658 persons were identified as suitable for use, and 58 of them with a capacity of 20,523 persons were registered as protective structures. 98 protective structures located in 34 institutions are subject to current repair, and 18 protective structures on the balance sheet of 10 institutions are subject to major repairs.

31 institutions without shelters (bomb and radiation shelters) to protect convicts and remanded persons from missile attacks need to build new civil defence facilities, and six institutions need to reconstruct existing protective structures.

In June 2023, the MoJ identified the institutions’ need for additional funding to bring the protective structures to a state of readiness and on 12 July 2023, it sent a letter to the Ministry of Finance of Ukraine (No. 90873/8907-4-23/16.3.1) on the additional need for funds for the construction of civil defence facilities.

During 2023, the competent authorities systematically inspected premises (shelters) for civil defence and indicated in the reports the conclusions on the state of readiness of such premises for use and recommendations on organisational measures necessary to bring the shelters to readiness for their intended use in accordance with the requirements approved by Order of the MIA of Ukraine No. 579 of 9 July 2018 “On Approval of Requirements for the Use and Accounting of the Fund of Civil Defence Facilities.” During the visits, the NPM groups examined the proper arrangement of civil defence facilities, their planned capacity, training, and availability of valid assessment reports of the state of readiness of civil defence facilities.

<sup>6</sup> Order of the Ministry of Internal Affairs of Ukraine No. 579 of 9 July 2018 “On Approval of Requirements for the Use and Accounting of the Fund of Civil Defence Facilities”: <https://zakon.rada.gov.ua/laws/show/r0879-18#Tex>.

# **SECTION 2**

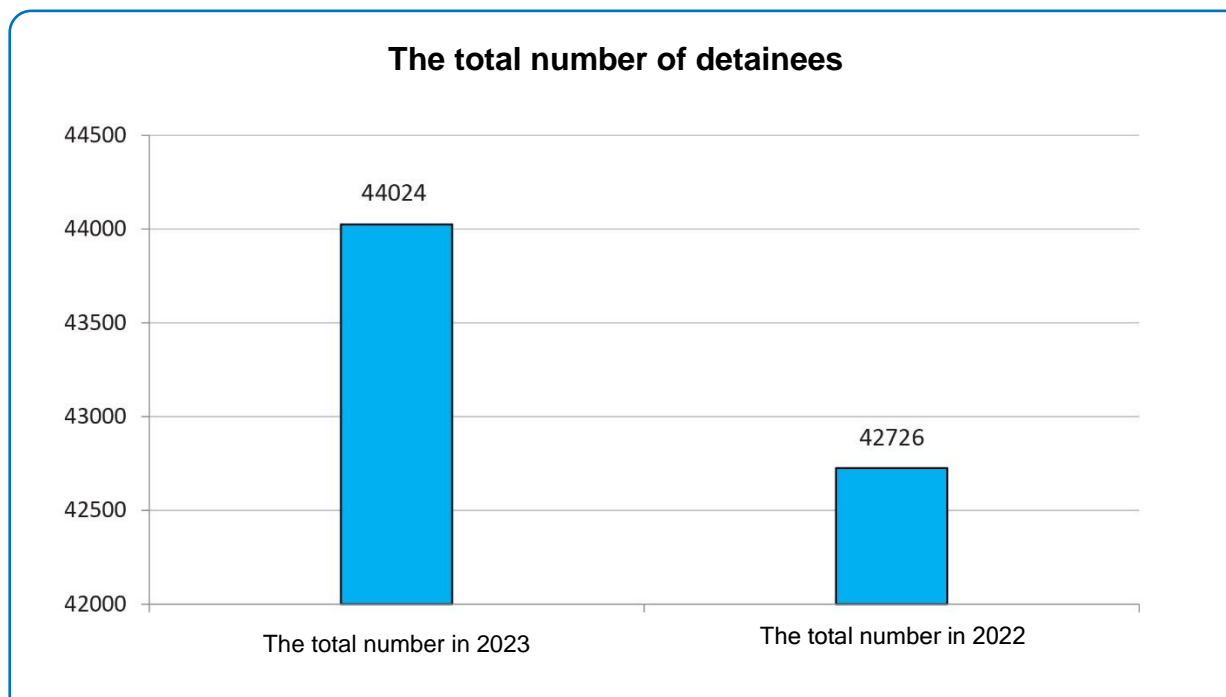
**VIOLATION OF  
FUNDAMENTAL RIGHTS  
OF MAN AND CITIZEN IN  
PLACES OF CUSTODY  
SUBORDINATED TO  
THE MOJ OF UKRAINE**

## 2.1. General Overview of Places of Custody Subordinated to the MoJ of Ukraine

According to the Regulation on the MoJ of Ukraine approved by the CMU Resolution No. 228<sup>7</sup> of 2 July 2024, one of the main tasks of the MoJ of Ukraine is to develop and implement the state penal policy.

The national law of Ukraine states that the staff of penitentiary bodies and institutions shall be obliged to ensure the observance of the rights of man and citizen, the exercise of the legal rights and interests of convicts and persons in custody, and the requirements of the legislation on the execution and serving of criminal sentences.

As of 31 December 2023, 148 PIs and PTFDs held 44,024 persons, which is more than last year.



In 2023, the Commissioner's Secretariat together with representatives of NGOs made 117 visits to the SPSU institutions.

The visits covered the city of Kyiv and 18 Oblasts (*Cherkasy, Chernihiv, Dnipropetrovsk, Ivano-Frankivsk, Kharkiv, Khmelnytskyi, Kyiv, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Vinnytsia, Volyn, Zakarpattia, and Zhytomyr*).

As of 31 December 2023, 41 subordinate units of the MoJ of Ukraine are located in the TOT (Kherson, Zaporizhzhia, Donetsk, and Luhansk Oblasts and the Autonomous Republic of Crimea), where public authorities temporarily do not exercise their powers.

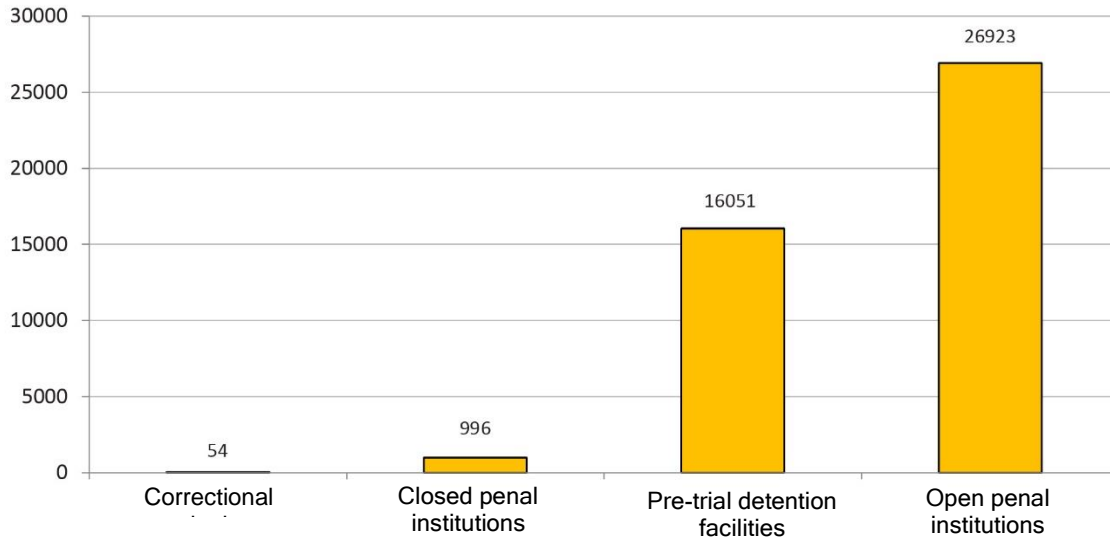
The prisoners and convicts were evacuated from 8 institutions located in the territorial communities where hostilities were taking place.

*The territory of SI "Pivnichna Correctional Colony (No. 90)" in Kherson Oblast was shelled four times in 2023.*

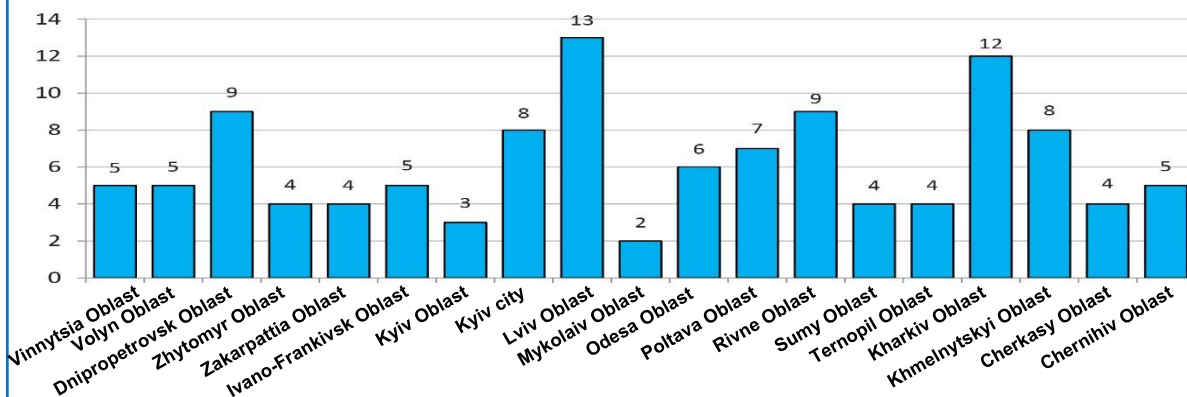
*On 17 December 2023, two hostile Shahed UAVs hit and damaged the buildings of the production shop, warehouses, dormitories for convicts and the premises of the vocational school.*

<sup>7</sup> Resolution of the Cabinet of Ministers of Ukraine No. 228 of 2 July 2014 "On Approval of the Regulation on the Ministry of Justice of Ukraine": <https://zakon.rada.gov.ua/laws/show/228-2014-%D0%BF#Text>.

**The number of detainees in different types of institutions**



**Number of visits to penal institutions**



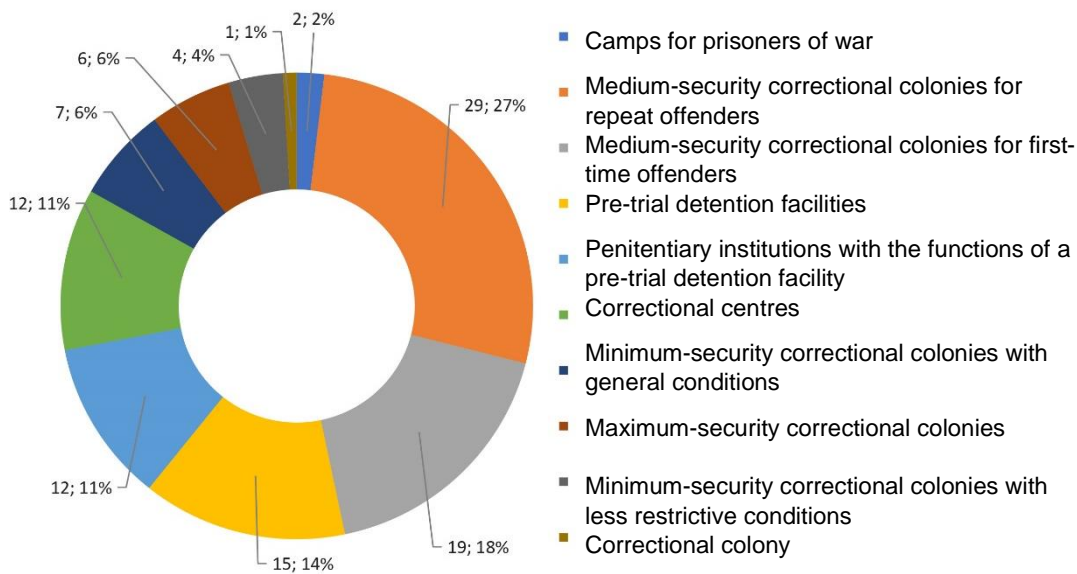
*A similar situation has developed in SI “Darivka Correctional Colony (No. 10)” which was subjected to shelling and missile attacks by the Russian military throughout 2023.*

Due to Russian armed aggression against Ukraine, there was a need to establish separate places of custody for the temporary detention of prisoners of war, which became SI Camp for Prisoners of War “Zakhid 1” (hereinafter referred to as the “Camp”) and Camp for Prisoners of War “Zakhid 2.”

A camp for prisoners of war is an institution for the placement and detention of prisoners of war during martial law on the territory of Ukraine that covers wartime and partially the reconstruction period after the end of hostilities.



### Institutions of the State Penitentiary Service of Ukraine



On 9 August 2023, the NPM group attended the camp and established that its administration and staff treated prisoners of war humanely, preventing violence, reprisals, ill-treatment and torture, offensive and degrading treatment, intimidation and public curiosity, conviction, and punishment without a prior court decision.

During the visit, there were no cases of overcrowding, violation of the right to privacy, excessive working hours, violation of labour remuneration, or failure to provide prisoners of war with underwear, clothing and footwear. The prisoners of war had access to drinking water and fresh air. Following the visits, the NPM group found that the camp staff fully ensured compliance with the requirements of the Geneva Convention relative to the Treatment of Prisoners of War.

## 2.2. Major Problems with the Observance of Rights and Freedoms of Prisoners and Convicts in Penitentiary Institutions

### Right to Protection from Torture, Cruel or Degrading Treatment or Punishment

In 2023, visits to PI were one of the priorities of the Department for Implementation of the NPM.

It should be noted that systemic violations of the rights of prisoners and convicts are still recorded in the SPSU institutions, given that the measures declared by the MoJ of Ukraine as a priority have not been implemented for decades. Instead, false steps are taken that are supposed to help remedy the problematic human rights situation.

In this regard, violation of space standards per person is the key problematic issue.

According to the current national law, namely part 2 of Article 11 of the Law of Ukraine “On Remand”<sup>8</sup> and part 1 of Article 115 of the CEC<sup>9</sup>, the established space standards in the cells (living premises) must be at least 2.5 m<sup>2</sup> for persons in custody and 4 m<sup>2</sup> for convicts.

Instead, the unprofessional reforming of the penal system, namely the wrong way of optimising and preserving PIs, leads to the fact that almost all penitentiary institutions fail to meet space standards for remanded persons and convicts.

During the visits in 2023, representatives of the NPM groups regularly registered violations of the established space standards per person.

*In particular, a visit to SI “Lychakiv Correctional Colony (No. 30)” revealed that the actual area per convict in some living premises was 2.5 m<sup>2</sup>.*

*In SI “Zhytomyr PI (No. 8),” it was found that merely 3 out of 88 cells in the maximum-security sector met the current legislative requirements for the floor area.*

*In addition, in the Kharkiv PTDF cells, representatives of the NPM group noted that the area per convict was 2.9 m<sup>2</sup> instead of 4 m<sup>2</sup> established by the regulatory acts. Due to cell overcrowding, the representatives of the NPM group found one detainee who did not have a sleeping accommodation and was forced to sleep on the floor or take turns sleeping.*

The problem of inadequate conditions of detention in places of custody has remained relevant for a long time, so there is still a reason to apply to the ECtHR for violations of the Convention for the Protection of Human Rights and Fundamental Freedoms.

*For example, the case of Smilyanskaya v. Ukraine (Application No. 46196/11 of 21 November 2019)<sup>10</sup> noted that detention conditions in Kharkiv PTDF were inadequate, namely the lack of personal space due to a violation of space standards (about 1 m<sup>2</sup> per person) in the cells where the applicant was held.*

<sup>8</sup> Law of Ukraine “On Remand”: <https://zakon.rada.gov.ua/laws/show/3352-12#Text>.

<sup>9</sup> Criminal Executive Code of Ukraine: <https://zakon.rada.gov.ua/laws/show/1129-15#Text>.

<sup>10</sup> Case of Smilyanskaya v. Ukraine (Application No. 46196/11): [https://zakon.rada.gov.ua/laws/show/974\\_e88#Text](https://zakon.rada.gov.ua/laws/show/974_e88#Text).





*For these grounds, the ECtHR held that Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms was violated due to poor living conditions and ordered the payment of EUR 10,000 in respect of non-pecuniary damage.*

Violations of space standards per prisoner and convict were recorded in other institutions, namely: Ivano-Frankivsk PI (No. 12), Kazankivska Correctional Colony (No. 93), Lviv PI (No. 19), Ladyzhyn Correctional Colony (No. 39), Bozhkivske Correctional Colony (No. 16), Temnivka Correctional Colony (No. 100), Kholodnohirska Correctional Colony (No. 18), Dykanivska Correctional Colony (No. 12), Boryspil Correctional Colony (No. 119) and Solonianska Correctional Colony (No. 21), etc.

The CPT stated in clause 13 of the 7th General Report [CPT/Inf (97) 10]<sup>11</sup> that the issue of cell overcrowding in the cells entails unhygienic conditions, a constant lack of privacy, and overburdened health-care services and the infrastructure of the institution and shall be resolved.

In addition, cases of discrimination, segregation, and stigmatisation of prisoners and convicts belonging to a particularly vulnerable category are systemic problems in the SPSU institutions' activities.

They are subjected to humiliating practices and abuse in their daily life and are at a heightened risk of inter-prisoner violence.

In the case of *S.P. and others v. Russia* (Application No. 36463/11 of 2 August 2023)<sup>12</sup>, the ECtHR emphasised the need to combat the negative influence of the informal prison hierarchy and held that the presence of particularly vulnerable categories constitutes a violation of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

*When the NPM group visited SI "Dnipro PI (No. 4)," it found two prisoners belonging to a particularly vulnerable category in the basement. There were mattresses, food, cigarettes, and other personal belongings in the premises where these persons were kept, so it indicated that these prisoners permanently stayed in the basement.*

*In addition, the administration of SI "Dnipro PI (No. 4)" does not place a particularly vulnerable category of prisoners and convicts in the holding cells. Such persons are forced by institution staff to stand outside the holding cells before being sent outside the institution which deprives them of the right to access drinking water, the possibility to go to the sanitary facility or sit on a bench for a considerable time and can be considered as ill-treatment.*

<sup>11</sup> 7th General Report on the CPT's activities [CPT/Inf (97) 10]: <https://rm.coe.int/1680696a71>.

<sup>12</sup> Case of *S.P. and others v. Russia* (Applications 36463/11 and 10 others): <https://hudoc.echr.coe.int/eng?i=001-224435>.



In State Institutions “Dnipro PI (No. 4)” and “Kharkiv PTF,” the NPM groups found that a particularly vulnerable category of detainees is held in cells that can be equated to those that do not meet human conditions (they lack proper lighting and ventilation, there is a persistent smell, the walls are covered with mould, the sanitary facilities are dirty, flush tanks do not work, mattresses are wet, etc.).



Visits to Lychakivska Correctional Colony (No. 30), Shepetivka Correctional Colony (No. 98), Boryspil Correctional Colony (No. 119), Solonianska Correctional Colony (No. 21), Kryvyi Rih Correctional Colony (No. 80) and Manevychi Correctional Colony (No. 42) revealed that persons belonging to a particularly vulnerable category are provided with separate tables in the dining room where they eat their meals, and are required to do dirty work (cleaning sanitary facilities, taking out the rubbish, etc.). In addition, these persons are subjected to constant harassment by other detainees and sometimes even by prison staff.



According to Article 1 of the Convention against Torture, this can be considered torture, namely, the infliction of mental suffering based on discrimination of any kind with the tacit consent of institution staff.

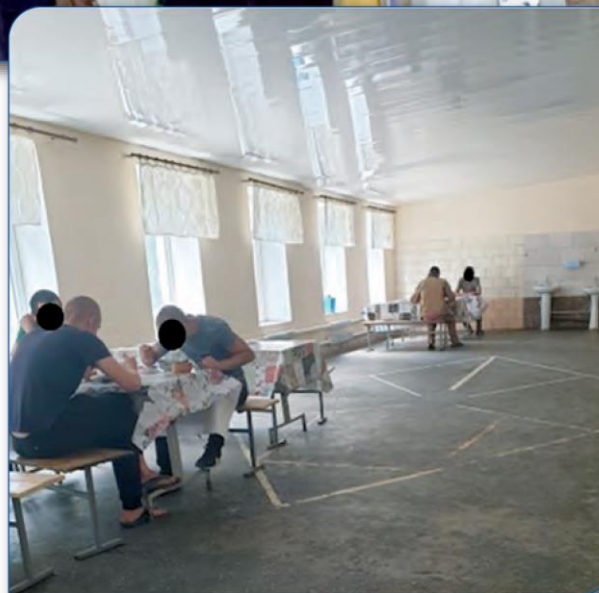
Physical and psychological violence against newly arrived convicts is another systemic problem in penitentiary institutions.

*When the NPM group visited SI “Bozhkivske Correctional Colony (No. 16),” it received numerous complaints from convicts about the use of physical force by the staff of the institution immediately upon arrival.*

*Torture and ill-treatment of convicts became routine and were applied to all convicts arriving at the institution.*

*In SI “Pervomaisk Correctional Colony (No. 117),” the NPM representatives received complaints from newly arrived convicts about physical and moral pressure from other convicts selected by the administration of the institution as duty prisoners.*

*During confidential interviews with the newly arrived convicts, it was established that a duty prisoner permanently resides with the newly arrived convicts, explains to them their rights and obligations, monitors compliance with security requirements and maintaining the proper sanitary condition, and forces these convicts to clean the territory and premises of the quarantine, diagnostic, and allocation unit.*





The above constitutes a violation of Clause 2 of Section I of the Regulation on the Quarantine, Diagnostic, and Allocation Unit for Convicts approved by Order of the MoJ of Ukraine No. 2300/5 of 4 November 2013, which states that newly arrived convicts shall be placed in the quarantine, diagnostic, and allocation unit to prevent uncontrolled communication with other convicts.

In the report to the Ukrainian Government on the Visit to Ukraine [CPT/Inf (2020) 40]<sup>13</sup>, the CPT stresses the need to abandon the practice of employing inmates as duty prisoners. Only penitentiary staff should be responsible for order and security.

Since 2015, regulatory acts regulating the activities of Correctional colonies have been amended and the provision requiring beds in disciplinary premises to be fixed to the walls for daytime has been removed.

*However, SI "Kremenchuk Correctional Colony" retained the means for such fixation, which creates conditions for possible abuse by the staff of the institution and may be an additional punitive element during the punishment, as convicted juveniles may be deprived of the opportunity to sit and lie on the bed during the day.*

When the NPM representatives visited Kamianske Correctional Colony (No. 34), Solonianska Correctional Colony (No. 21), Dykanivka Correctional Colony (No. 12), Pervomaisk Correctional Colony (No. 117) and punishment cells of Kharkiv PTF, they recorded the above violations in the DICE premises.

### **Violation of the Right to Work and Protection from Exploitation**

During the visits to places of custody, representatives of the NPM groups identified labour exploitation of convicts. Employed convicts of the correctional colony enterprises receive less than the minimum wage or are engaged in work without pay.

According to Article 119 of the CEC of Ukraine, the labour of convicts sentenced to imprisonment shall be reimbursed according to its quantity and quality. In addition, Clause 5.1 of the Instruction on Working Conditions and Wages of Persons Sentenced to Deprivation of Liberty or Imprisonment approved by Order of the MoJ of Ukraine No. 396/5<sup>14</sup> of 7 March 2013 states that the wages accrued to convicts cannot be less than statutory minimum wage provided that they comply with the work quota or working hours.

<sup>13</sup> Report to the Ukrainian Government on the Visit to Ukraine Carried Out by the CPT from 4 to 13 August 2020: <https://rm.coe.int/1680a0e8a4>.

<sup>14</sup> Order of the Ministry of Justice of Ukraine No. 396/5 of 7 March 2013 "On Approval of the Instruction on Working Conditions and Wages of Persons Sentenced to Deprivation of Liberty or Imprisonment": <https://zakon.rada.gov.ua/laws/show/>

However, in SI “Bozhkivske Correctional Colony (No. 16),” the NPM group found that convicts are paid UAH 10–50 per month for the days worked. In case of refusal to work, convicts are subjected to psychological pressure from other inmates and the administration of the institution.

Studying the information on the wages received by convicts in September 2023, the NPM group found that the average wage in Solonianska Correctional Colony (No. 21) is about UAH 1,200 without deduction of taxes and utilities. This is less than the national minimum wage, which was UAH 6,700 as of September 2023.

The same violations were found in Kamianske Correctional Colony (No. 34), Boryspil Correctional Colony (No. 119), Temnivka Correctional Colony (No. 100) and Ladyzhyn Correctional Colony (No. 39).

Labour law violations were also found in Kryvyi Rih Correctional Colony (No. 80), Pervomaisk Correctional Colony (No. 117), Kyiv PTDF and Horodyshe Correctional Colony (No. 96), where convicts and prisoners are engaged in work without being paid. These employees allegedly performed works on the improvement of places of imprisonment under clause 5 of Article 118 of the CEC of Ukraine, but during confidential interviews with them and a study of official documentation, the NPM group found that the working day of such employees in terms of hours did not differ from employees whose work was paid.

So, the period of employment of convicts working without pay is not included in their length of service. It deprives such persons of the right to pension provision even upon reaching retirement age, in accordance with Article 12 of the Law of Ukraine “On Pension Provision”<sup>15</sup>.

The matter of wage fund formation for the maintenance of convicts engaged in upkeep works in PI requires additional regulatory settlement. The source of wage payment to convicts left in the institution for upkeep works is the special fund, i.e., income received from the employment of convicts and funds from the deduction of convicts’ wages for utilities.

Taking into account that the funds earned by the institution are not enough to pay salaries to convicts left in the institution to perform full upkeep works, the management of the institution engages convicts to perform such works without payment.

A separate problematic issue in the MoJ system is the involvement of convicts in work in harmful and heavy working conditions, which constitutes a violation of Article 43 of the Constitution of Ukraine, part 3 of Article 119 of the CEC of Ukraine and Article 153 of the Labour Code of Ukraine<sup>16</sup>, which guarantee the right to safe and harmless working conditions.

When the NPM group visited SI “Dykanivka Correctional Colony (No. 12),” it found out that convicts had been injured while performing production tasks in the foundry.



<sup>15</sup> Law of Ukraine “On Pension Provision”: <https://zakon.rada.gov.ua/laws/show/1788-12#Text>.

<sup>16</sup> Labour Code of Ukraine: <https://zakon.rada.gov.ua/laws/show/322-08#Text>.





During confidential interviews and examinations of the convicts employed at the enterprise, almost every employee was found to have significant burns to hands and feet.

The above is because the employees performing production tasks in the foundry are not provided with special [clothing](#), footwear and other personal protective equipment.

The NPM group found violations of the right to safe working conditions in Manevychi Correctional Colony (No. 42), Solone Correctional Colony (No. 21), Temnivka Correctional Colony (No. 100), Kholodnohirska Correctional Colony (No. 18) and Lychakiv Correctional Colony (No. 30).

During the visits to penitentiary institutions, the NPM group found that the working week exceeded 40 hours, which constitutes a violation of Article 52 of the Labour Code of Ukraine, Article 119 of the CEC of Ukraine and clause 4.1 of the Instruction on Working Conditions and Wages of Persons Sentenced to Deprivation of Liberty or Imprisonment approved by Order of the MoJ of Ukraine No. 396/5 of 7 March 2013.

A survey of convicts in SI "Naderzhynshchyna Correctional Colony (No. 65)" conducted in the absence of third parties and under conditions that exclude the possibility of listening or tapping found that the working day of the convicts involved in production starts at 07:00 and ends about 19:00. The working week consists of six working days and one day off.

A similar situation was in Lviv PI (No. 19), Horodyshche Correctional Colony (No. 96), Temnivka Correctional Colony (No. 100), Oleksiivka Correctional Colony (No. 25), Kholodnohirska Correctional Colony (No. 18) and Kamianske Correctional Colony (No. 34).

### **Violations of the Right to Decent Conditions for Detention**

According to clause 10 of the Standard Minimum Rules for the Treatment of Prisoners<sup>17</sup>, the accommodation provided for prisoners, and in particular all sleeping accommodation, shall meet all sanitary requirements, due regard being paid to climatic conditions and especially to cubic content of air, minimum floor space, lighting, heating, and ventilation.

The visits revealed that most penitentiary institutions are characterised by violations of the right to privacy, access to fresh air and drinking water, poor sanitary, hygienic and living conditions, and failure to comply with temperature and lighting requirements in the premises where detainees live.

<sup>17</sup> Standard Minimum Rules for the Treatment of Prisoners: [https://zakon.rada.gov.ua/laws/show/995\\_212#Text](https://zakon.rada.gov.ua/laws/show/995_212#Text).

It should be noted that the above poor conditions of detention of prisoners and convicts violate Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and lead to numerous applications to the ECtHR.

For example, in the case of *Muršić v. Croatia* (Application No. [7334/13](#) of 20 October 2016)<sup>18</sup>, the applicant submitted that the cells in which he had been held were badly maintained, humid, dirty and insufficiently equipped with lockers and chairs for all inmates. The sanitary facilities were in the same room as the living area and were not separated. Those facilities were adjacent to the dining tables, and there was a bad smell in the cells. Recreation yards were in poor condition, the food was of poor quality, and the sanitary and hygienic conditions were poor.

In some PTDFs and PIs, temporary detention facilities for remanded persons in the holding cells do not provide the conditions required by sanitary and hygienic standards and violate the requirements of clause 10, Chapter 2 of Section II of the Internal Regulations of the Pre-Trial Detention Facilities of the SPSU approved by Order of the MoJ of Ukraine No. 1769/5<sup>19</sup> of 14 June 2019.

*For example, in SI “Kyiv PTDF,” there are no supply and exhaust ventilation systems, access to drinking water, and sanitary facilities in all cells of the holding cell. There is even no artificial lighting in some cells.*

*In addition, there is only one common sanitary facility for all cells in the holding cell and prisoners have to call the staff and ask them to take them to the toilet.*

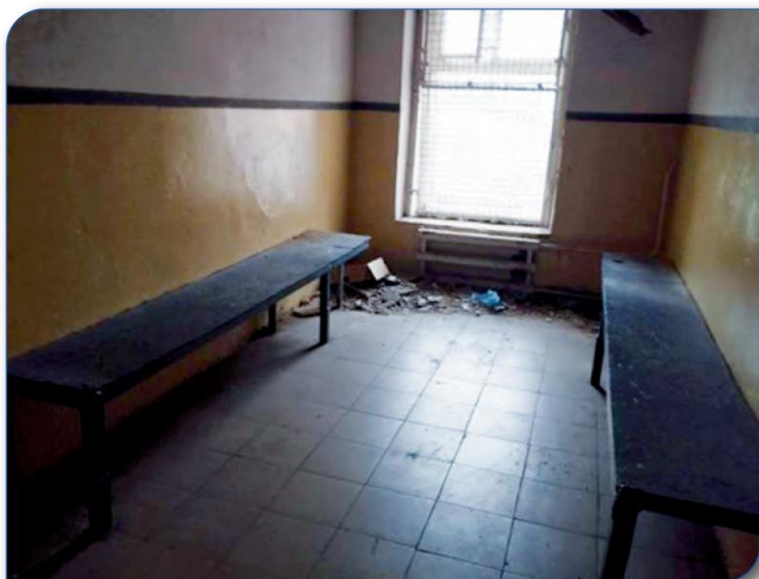
*This creates conditions in which prisoners depend on the officials of SI “Kyiv PTDF” which may be grounds for humiliation of their human dignity.*

*A similar practice was observed in SI “Dnipro PI (No. 4),” where during the visit, the cells of the holding cell were overcrowded.*

It is worth noting the poor living conditions of persons in custody, which do not even come close to meeting sanitary and hygienic standards, in violation of clauses 18 and 19 of Part 2 of the European Prison Rules<sup>20</sup> and Article 11 of the Law of Ukraine “On Remand.”

*The visit to SI “Poltava PI (No. 23)” revealed that most of the cells were dirty. There was an unpleasant smell, condensed moisture on the ceiling, which caused the walls to become mouldy, a significant clutter of bags and personal belongings, dirty floors and sanitary facilities, wet bedding and mostly torn mattresses.*

*A similar situation with poor conditions of the cells for prisoners was in Lviv PI (No. 19), Kyiv PTDF and Kharkiv PTDF.*



<sup>18</sup> Case of *Muršić v. Croatia* (Application No. [7334/13](#): <https://hudoc.echr.coe.int/?i=001-167483>).

<sup>19</sup> Order of the Ministry of Justice of Ukraine No. 1769/5 of 14 June 2019 “On Approval of the Internal Regulations of the Pre-Trial Detention Facilities of the State Penitentiary Service of Ukraine”: <https://zakon.rada.gov.ua/laws/show/z0633-19#Text>.

<sup>20</sup> European Prison Rules (Recommendation Rec(2006)2 of the Committee of Ministers to Member States): [https://zakon.rada.gov.ua/laws/show/994\\_032#Text](https://zakon.rada.gov.ua/laws/show/994_032#Text).





The bedding of the convicts and prisoners held in SI "Ivano-Frankivsk PI (No. 12)" contained the remains of bugs and lice.

The proper living conditions for the convicts are not provided in SI "Lychakiv Correctional Facility (No. 30)," where one of the living premises for convicts had windows without glass in winter. The sanitary facilities in dormitories were unsanitary. There was no proper natural and artificial lighting, the water taps did not work, and the toilet cubicles were in a dilapidated condition.

One of the residential sections of the facility had a leaky ceiling. The convicts used their basins to collect water and hoped that the situation would change by itself with the onset of warm and summer weather.

The visit to the local sectors of SI "Shepetivka Correctional Colony (No. 98)" revealed that the plaster of the wall collapsed along with the elements of the supporting structures in one of the dormitories for convicts.

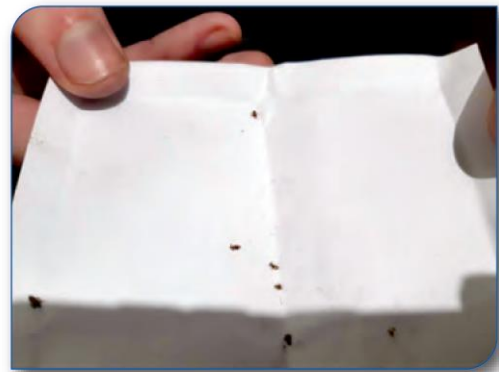
In the dormitory where the wall collapsed, there was a washing facility and a toilet, the walls of which were damp and covered with mould.

There was a violation of Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which ensures the right to respect private life in the cells and living premises of the penitentiary institutions.

In SI "Ivano-Frankivsk PI (No. 12)," the beds are arranged close to each other and detainees have no personal space. There are no partitions that allow for privacy and doors in the sanitary facilities.

There are no curtains and shower partitions for the privacy of prisoners and convicts in the bathing facilities, in violation of rules 18.1 and 19.3 of the European Prison Rules. It should be noted that the lack of partitions sufficient for privacy is inherent in almost all SPSU institutions.

In its reports, the CPT has noted that air is essential for life and every prisoner and convict has a right to it. Lack of access to air creates conditions for the spread of various diseases. Security measures for certain categories of detainees should be taken, not depriving them of access to fresh air.





During a visit to the cells for women in SI “Rivne PTDF,” the NPM group found that the artificial ventilation system was malfunctioning at that time, and the metal bars installed did not allow the window to be fully opened.

Free access to drinking water, which is essential for ensuring full-fledged human life, remains widespread in the SPSU institutions.

When the NPM group visited SI “Ladyzhyn Correctional Colony (No. 39),” it received numerous complaints from convicts about the quality of drinking water and the impossibility of drinking it due to contamination.

The convicts use homemade filters made of scrap materials and defend water to consume it, but even then, the water contains a lot of sediment.

In some cells of the SPSU institutions, convicts and persons in custody have virtually no access to natural light due to heavily barred windows.

Some cells in SI “Ivano-Frankivsk PI (No. 12)” have insufficient natural light due to heavily barred windows, preventing prisoners from reading.

A similar situation with insufficient natural light in detention facilities was in the DICE cells of Lychakivska Correctional Colony (No. 30) and the cells of Poltava PI (No. 23) and Kyiv PTDF.



### Violation of the Right to Professional Legal Aid

The visits to Khmelnytskyi PTDF and Temnivka Correctional Colony (No. 100) established deficiencies leading to violations of the rights of prisoners and convicts to professional legal aid.

The quality of legal aid provided by lawyers shall comply with the Quality Standards for Free Secondary Legal Aid in Criminal Proceedings approved by Order of the MoJ of Ukraine No. 386/5<sup>21</sup> of 25 February 2014 and Article 3 of the Law of Ukraine “On Free Legal Aid<sup>22</sup>.”

<sup>21</sup> Order of the Ministry of Justice of Ukraine No. 386/5 of 25 February 2014 “On Approval of Quality Standards for Free Secondary Legal Aid in Criminal Proceedings”: <https://zakon.rada.gov.ua/laws/show/z0337-14#Text>.

<sup>22</sup> Law of Ukraine “On Free Legal Aid”: <https://zakon.rada.gov.Ua/laws/show/3460-17#Text>.

However, during confidential interviews with persons in custody in SI "Khmelnyskyi PTDF," it was established that some of them do not receive legal aid from the Regional Centre for Free Secondary Legal Aid in Khmelnytskyi Oblast. The prisoners reported that since being remanded in custody, lawyers assigned to them by the Centre for Free Secondary Legal Aid have not participated in court hearings held with the participation of prisoners via video conference in a specially equipped room and have not attended them to agree the defence's legal position in the case.

At the Commissioner's initiative, the Regional Centre for Free Secondary Legal Aid in Khmelnytskyi Oblast inspected the above fact and found that the lawyer had violated the Quality Standards for Free Secondary Legal Aid in Criminal Proceedings, which resulted in the lawyer's removal from the Register of Lawyers Who Provide Free Secondary Legal Aid and termination of the contract on free legal aid.

A similar situation developed in SI "Temnivka Correctional Colony (No. 100)." During the visit, the NPM group received petitions from persons sentenced to life imprisonment concerning failure to receive legal aid from the Eastern Interregional Centre for Free Legal Aid.

During visits to places of custody, numerous complaints were received from prisoners and convicts about the improper functioning of the Unified Judicial Information and Telecommunication System.

During a visit to SI "Khmelnyskyi PTDF," prisoners complained about the inadequate volume and sometimes lack of sound during court hearings via video conference, which constitutes a violation of the CrPCU<sup>23</sup> and the Law of Ukraine "On the Judiciary and the Status of Judges"<sup>24</sup>.

The same deficiencies were established during a visit to SI "Temnivka Correctional Colony (No. 100)."

### **Violation of the Right to Life**

According to Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms, everyone's right to life shall be protected by law.

According to Article 27 of the Constitution of Ukraine, every person shall have the inalienable right to life. The duty of the state shall be to protect human life.

The duty of the state to exercise the right to life means the obligation of the state to create appropriate conditions for the exercise of this right.

The ECtHR has repeatedly emphasised that the state is obliged to protect the right to life of persons under its control by taking practical preventive security measures to protect detainees. Such persons are in a vulnerable position and public authorities are obliged to protect their right to life.

Due to the violation of the Fire Safety Regulations in Ukraine approved by Order of the MIA of Ukraine No. 1417<sup>25</sup> of 30 December 2014, there are cases of injuries and even deaths in the SPSU institutions.

During a visit to SI "Kolomyia Correctional Colony (No. 41)," it was established that on 11 February 2023, there was a fire in the training centre because of an electrical short-circuit, as a result the premises and equipment were damaged. According to the records in the Book of Statements and Notices of Criminal Offences and Other Events in the facility, the body of a convict who died as a result of the fire was found in the corridor of the training centre.

In addition, as a result of an electrical short-circuit on 29 May 2023, there was a fire in cell No. 1 of the detention sector of SI "Bozhkivske Correctional Colony (No. 16)," destroying and damaging equipment in this room. A prisoner diagnosed with carbon monoxide poisoning was hospitalised.

At the same time, the NPM groups found violations of the Fire Safety Regulations in almost all the institutions of the SPSU.

<sup>23</sup> Criminal Procedure Code of Ukraine: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

<sup>24</sup> Law of Ukraine "On the Judiciary and the Status of Judges": <https://zakon.rada.gov.ua/laws/show/1402-19#Text>.

<sup>25</sup> Order of the MIA of Ukraine No. 1417 of 30 December 2014 "On Approval of the Fire Safety Regulations in Ukraine": <https://zakon.rada.gov.ua/laws/show/z0252-15#Text>.



In addition, significant violations of the Code of Civil Protection of Ukraine were found during visits to the SPSU institutions.

In some state institutions, namely Poltava PI (No. 23), Lviv PI (No. 19), Khmelnytskyi PTDF, Kyiv PTDF, Boryspil Correctional Colony (No. 119), Rivne PTDF, Ivano-Frankivsk PI (No. 12), Lutsk PTDF, Manevychi Correctional Colony (No. 42) and Dnipro PI (No. 4), there are either no civil defence shelters at all or they are not properly equipped and are unsuitable for its purpose.

The prisoners and convicts held in these institutions, along with the staff, are exposed to daily risks to their lives and health, remaining unprotected, during the air-raid alarm caused by the military aggression of the RF against Ukraine.

### **Violation of the Right to Maintain Contact with the Outside World**

According to Article 110 of the CEC of Ukraine, convicts shall be entitled to short visits of up to four hours. Short visits shall be granted to relatives or other persons in the presence of a representative of the facility.

Prison authorities must promote prisoners and convicts to maintain good contact with the outside world.

However, in Solone Correctional Colony (No. 21) and Temnivka Correctional Colony (No. 100), the intercoms failed, and convicts communicated through the holes in the protective glass window.

During confidential interviews, the convicts complained that they had to speak loudly during short visits to be heard by the person they were talking to.

According to the Procedure for Organising Access to the Global Internet for Convicts approved by Order of the MoJ of Ukraine No. 3233/5<sup>26</sup> of 19 October 2017, convicts shall be entitled to access the Internet and use IP telephony and video conference. To provide convicts with access to the Internet, PIs and PTDFs should have Internet classes.

When the NPM group visited Ladyzhyn Correctional Colony (No. 39), Dykanivka Correctional Colony (No. 12) and Kholodnohirska Correctional Colony (No. 18), it identified cases when, despite the availability of Internet classes, convicts were unable to use them to submit electronic appeals.

According to the Department for the Execution of Criminal Sentences, no electronic appeal was sent from these institutions in 2022–2023.

The facts of violations of the rights of convicts to file applications have already been reflected in the decisions of the ECtHR. The case of Trosin v. Ukraine (Application No. 39758/05 of 23 May 2012)<sup>27</sup> stated that convicts are in a particularly vulnerable position, as they are dependent in their communication with the Court and the rest of the outside world on the prison administration.

Maintaining permanent contact with families and the outside world is an important issue for prisoners and convicts. According to Article 9 of the Law of Ukraine “On Remand,” persons in custody shall be entitled to receive parcels, packages, and money transfers.

The 2nd General Report on the CPT’s Activities [CPT/Inf (92) 3]<sup>28</sup> states that any limitations upon contact with the outside world should be based exclusively on security concerns of an appreciable nature or resource considerations.

During a visit to Kharkiv PTDF, prisoners complained that the staff of the facility did not accept parcels from their relatives and friends. To observe the rights of persons held in the said PTDF, the Commissioner sent a request to the MoJ of Ukraine.

<sup>26</sup> Order of the Ministry of Justice of Ukraine No. 3233/5 of 19 October 2017 “On Approval of the Procedure for Organising Access to the Global Internet for Convicts”: <https://zakon.rada.gov.ua/laws/show/z1280-17#Text>.

<sup>27</sup> Case of Trosin v. Ukraine (Application No. 39758/05): [https://zakon.rada.gov.ua/laws/show/974\\_940#Text](https://zakon.rada.gov.ua/laws/show/974_940#Text).

<sup>28</sup> 2nd General Report on the CPT’s Activities [CPT/Inf (92) 3]: <https://rm.coe.int/1680696a3f>.

Following the response of the MoJ of Ukraine, to prevent further human rights violations, Kharkiv PTFD has resumed accepting parcels since 19 September 2023 in accordance with the requirements of regulatory acts.

According to part 5 of Article 110 of the CEC of Ukraine and clause 2 of Section XIV of the Internal Regulations of the Penitentiary Institutions approved by Order of the Ministry of Justice of Ukraine No. 2823/5<sup>29</sup> of 28 August 2018, convicts shall be granted the right to telephone calls without limitation of their number at the time specified in the daily schedule.

The same right of the convicts is implemented formally in SI “Kazankivska Correctional Colony (No. 93).” The phone was malfunctioning in the place for making mobile phone calls designated by the facility authorities.

### **Violation of the Right to Information**

Clause 6 of Section II of the Internal Regulations of the Penitentiary Institutions approved by Order of the MoJ of Ukraine No. 2823/5 of 28 August 2018 states that if foreign nationals or stateless persons are serving their sentences in a penitentiary institution, the basic rights and obligations of such convicts are additionally translated into the UN official languages and placed on notice stands in the social and psychological service department.

While visiting Kryvyi Rih Correctional Colony (No. 80), Kazanka Correctional Colony (No. 93) and Lychakiv Correctional Colony (No. 30) where foreign nationals were held, there were no basic rights and obligations of convicts on notice stands.

## **2.3. Activities of SI “SPSU Healthcare Centre”**

Visits to 47 medical units and four multidisciplinary hospitals of SI “Healthcare Centre of the SPSU” was an important NPM area of activity in 2023. Despite the preliminary recommendations provided by the NPM to restore the rights of detainees and prevent their further violations, many violations of the rights of convicts and prisoners in penitentiary institutions are still being identified.

During its periodic visits to Ukraine, the CPT has emphasised that prisoners should have at least the same standards of medical care as in society and free access to necessary medical services.

By the order of the MoH of Ukraine, in 2020, an interdepartmental working group for improving the provision of medical care to convicts, persons in custody, and persons released from places of detention, was established to improve the provision of medical care and support for convicts, prisoners, and persons released from places of detention. Even though the Operational Plan for the Implementation of the Strategy for Reforming the Penitentiary System provides for the development of a model to provide medical care to convicts and persons in custody within a unified medical space in the third quarter of 2023, no real steps have been taken in this direction to date. There is no project or concept to integrate the healthcare system in prisons with the national healthcare system, which makes it impossible for convicts and prisoners to access modern diagnostic and treatment methods and creates additional barriers to preventing the spread of contagious diseases. In addition, the isolation of penitentiary medicine prevents the recruitment of highly qualified medical personnel and necessary funding from the state healthcare guarantee programme.

<sup>29</sup> Order of the Ministry of Justice of Ukraine No. 2823/5 of 28 August 2018 “On Approval of the Internal Regulations of the Penitentiary Institutions”: <https://zakon.rada.gov.ua/laws/show/z1010-18#Text>.

*When the NPM group visited Sofiivska Multidisciplinary Hospital No. 45 of the branch of SI “Healthcare Centre of the SPSU” in Dnipropetrovsk and Donetsk Oblasts, it found a bedridden patient in serious condition in the bed of ward No. 4 of the neurological department. Communication with the convict was difficult due to a pronounced impairment of speech and mobility due to the forced supine position. The patient had a deformity of the skull bones in the right temporal region.*

*Even though T. had been hospitalised for a long time (about 2 months) and was in inpatient treatment at Dnipro Multidisciplinary Hospital No. 4 of the branch of SI “Healthcare Centre of the SPSU” in Dnipropetrovsk and Donetsk Oblasts (27 days), the patient’s condition only deteriorated, and he died on 11 December 2023 in the intensive care unit of I. I. Mechnikov Dnipro Regional Clinical Hospital.*

*The above facts may indicate the failure to provide proper medical care to the convict, so the Commissioner took relevant measures.*

*During a visit to Medical Unit No. 30 of the branch of SI “Healthcare Centre of the SPSU” in Lviv Oblast, convict S. who had a ventral hernia and required surgical treatment appealed to the NPM group. According to the medical records, on 1 March 2023, the convict was sent for treatment to Lviv Multidisciplinary Hospital No. 19 of the branch of SI “Healthcare Centre of the SPSU” in Lviv Oblast, but according to him, he was denied surgical treatment due to the impossibility to carry out the relevant intervention in the hospital. Following the NMP group’s response, a healthcare facility capable of performing the relevant surgical intervention was found, and the procedure for referring convict S. for treatment was agreed upon with the facility authorities and the medical unit.*

The lack of proper medical care for convicts and prisoners with viral hepatitis C remains an important issue. In particular, during visits to penitentiary institutions, the NPM group regularly finds that most people suspected of having viral hepatitis C have not done a quantitative or qualitative test for nucleic acids by polymerase chain reaction (PCR) or HCV core antigen (cAg) detection in blood serum or plasma. Such persons do not receive pangenotypic direct-acting antiviral agents, which leads to the development of liver diseases (necrotic inflammation of the liver, fibrosis, cirrhosis, decompensation of cirrhosis, hepatocellular carcinoma, severe extrahepatic manifestations), serious health consequences for convicts and prisoners and death.

Another problem is the lack of an approved procedure for providing medical care to prisoners in PTDFs. This leads to inefficient organisation of medical care for detainees in PTDFs. As a result, detainees regularly face refusals to provide the necessary medical care, delays in hospitalisation in healthcare facilities, etc. Inadequate settlement of issues related to medical care in PTDFs significantly impairs the access of such persons to medical aid and poses a threat to their health and life.

Currently, the implementation of SMT programmes for convicts and prisoners with addictions is just partially ensured in the penitentiary institutions of Ukraine. In particular, the MoJ of Ukraine has not ensured the introduction of such treatment in most PTDFs and PIs. Due to a lack of funding, SMT programmes have been implemented only in some SPSU institutions. This deprives a significant majority of convicts and prisoners of a relevant diagnosis of access to effective and science-based treatment for their disease.

*During a visit to Poltava City Medical Unit No. 23 of the branch of SI “Healthcare Centre of the SPSU” in Poltava Oblast, it was found that only persons who have previously undergone treatment can receive therapy, which violates the SMT Procedure.*

*The narcologist or psychiatrist of the medical unit does not decide to start SMT based on a diagnosis of mental and behavioural disorders due to opioid use under the International Classification of Diseases (ICD-10), compliance with the criteria for prescribing SMT and absence of contraindications for persons who have not previously been diagnosed, which violates their right to choose treatment methods in accordance with Article 38 of the Law of Ukraine “Fundamentals of the Legislation of Ukraine on Health Care.”*

*During a visit to Medical Unit No. 25 of the branch of SI "Healthcare Centre of the SPSU" in Kharkiv and Luhansk Oblasts, it was found that the medical unit had not taken measures to ensure the continuity of treatment with SMT drugs. At the same time, during the visit, a newly arrived convict was found who had previously received SMT while in the PTDF but stopped treatment after being transferred to the facility (according to medical records, a convict has a drug withdrawal syndrome).*

Numerous facts of non-provision or improper provision of medical care to convicts and prisoners were recorded. In many cases, the penitentiary system is simply unable to provide certain types of necessary treatment, e.g., surgery or palliative care.

During regular visits to penitentiary institutions, the NPM representatives identified some systemic problems that lead to violations of the rights of convicts and prisoners to proper healthcare.

In particular, there is still unjustified control by the facility authorities over the work of medical units that violates the principle of prisoners' health information privacy. In addition, cases of bodily injuries to convicts and prisoners are often not recorded or recorded improperly.

*When the NPM group visited Medical Unit No. 80 of the branch of SI "Healthcare Centre of the SPSU" in Dnipropetrovsk and Donetsk Oblasts, it found evidence that facility staff possess confidential health information of convicts held therein. Facility staff are present during medical examinations, and there is video surveillance of the PI in the premises where medical examinations take place (doctors' offices, manipulation room, isolation ward). The above violates the requirements of Article 39-1 of the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Health Care" on the right of persons to health information privacy and clause 9 of Section I of the Procedure. The CPT notes that all medical examinations of convicts (both immediately upon arrival and later) should be conducted in such a way that non-medical staff cannot hear and, if possible, observe the examination.*

In addition, there are numerous systemic deficiencies in the organisation of medical care in PIs and PTDFs. In particular, preventive examinations are often conducted formally or not at all. No cooperation between psychiatrists and personnel of the social and psychological service in penitentiary institutions makes it difficult to prevent suicides and deteriorates the mental health of convicts and prisoners.

*During a visit to Medical Unit No. 96 of the branch of SI "Healthcare Centre of the SPSU" in Volyn and Rivne Oblasts, it was found that there were 19 suicidal persons and 28 persons at risk of self-harm, but according to the medical records, the psychiatrist did not examine these people that indicates inadequate interaction between the social and psychological service of the facility and the doctors of the medical unit. This can lead to deterioration of health status and a threat to the convicts' lives.*

Medical aid for people with mental disorders is also often provided in violation of the relevant legislation.

*When the NPM group visited Medical Unit No. 80 of the branch of SI "Healthcare Centre of the SPSU" in Dnipropetrovsk and Donetsk Oblasts, it found a person with mental disorders who had been held for 2 months in a room called "Isolation Room" behind metal bars, under video surveillance and without proper healthcare. It was established that the convict was not examined by a psychiatrist and did not receive the necessary treatment. As a result of the visit, a report was sent to the National Police of Ukraine.*

*During a visit to Poltava City Medical Unit No. 23 of the branch of SI "Healthcare Centre of the SPSU" in Poltava Oblast, patient O. was found to be unable to care for himself due to a diagnosed mental disorder. According to medical staff, his roommates are responsible for changing his nappies and caring for him. It was established that patients are not provided with mental healthcare in conditions meeting the requirements of sanitary legislation, in particular, the bed linen on which the patient lies is dirty and damp, and used nappies are thrown under his bed. All this constitutes a violation of Article 25 of the Law of Ukraine "On Psychiatric Aid." At the request of the NPM group, these deficiencies were eliminated.*



Following the visits to places of custody, the Commissioner's Secretariat sent requests and submissions to the competent authorities, in particular to the MoJ of Ukraine, demanding that the necessary measures be taken to eliminate the above human rights violations identified during the NPM's activities and to prevent torture and other cruel, inhuman or degrading treatment or punishment in the activities of medical units and multidisciplinary hospitals of SI "Healthcare Centre of the SPSU."

It is also worth noting the issue of the lack of medical staff in medical units and hospitals of SI "Healthcare Centre of the SPSU," lack of sufficient medicines and medical devices in pharmacies, and malfunction or lack of necessary medical equipment. This results in the impossibility of timely examination and treatment. In addition, there were some cases of storage and use of expired medicines.

*When the NPM group visited Medical Unit No. 114 of the branch of SI "Healthcare Centre of the SPSU" in Vinnytsia Oblast, it found an expired batch of HIV test kits on the territory of the medical unit which constitutes a violation of the requirements of the Instruction on the Organising Storage of Various Groups of Medicines and Medical Devices in Pharmacies approved by Order of the MoH of Ukraine No. 44 of 16 March 1993. Expired medicines and defibrillator electrodes were also found.*

*At the same time, improper storage of Neuromax was found in the medicine cabinet, which should be stored at a temperature from 2 °C to 8 °C (in a refrigerator) in accordance with the instructions on the packaging.*

The cells and wards in medical units and hospitals often fail to meet the necessary sanitary and hygienic requirements, which poses a threat of spreading contagious diseases. The situation with tuberculosis is of particular concern, as the relevant isolation rooms do not meet modern medical standards.



*The premises of Poltava City Medical Unit No. 23 of the branch of SI "Healthcare Centre of the SPSU" in Poltava Oblast fail to meet the requirements of sanitary and epidemiological safety and require repair work. The medical unit premises are in an unsanitary condition with damaged walls, ceilings and floors, making it impossible to properly disinfect the premises. The temperature requirements are also not met (the temperature in the manipulation room is 11 °C), and there is no hot water supply. This has a negative impact on the therapeutic environment in the medical unit.*



*During a visit to Ivano-Frankivsk City Medical Unit No. 12 of the branch of SI "Healthcare Centre of the SPSU" in Chernivtsi, Ivano-Frankivsk, Zakarpattia and Ternopil Oblasts and confidential interviews between convicts and prisoners and the NPM group, it was established that there were persons in the facility with lice on their bodies, about which they informed the medical staff. The need for disinfestation measures in the facility was also emphasised to the head of SI "Ivano-Frankivsk PI (No. 12)." However, in violation of Order of the MoH of Ukraine No. 38 of 28 March 1994 "On the Organisation and Conducting Measures to Combat Pediculosis", facility staff did not take relevant measures, which could lead to the spread of contagious diseases among convicts and prisoners and pose a threat to their health.*

Considerable attention should also be paid to medical record keeping. There is often a lack of the required journals and improper maintenance of medical records. Healthcare professionals do not have access to electronic medical records of patients.

The problems of observing the rights of people with disabilities held in the SPSU institutions should also be mentioned. They are not provided with proper conditions and rehabilitation care.

*During confidential interviews, it was established that convict S. has a disability of group II and a neurological disease. In December 2022, he was consulted by a neurologist and medical prescriptions were not prescribed to him due to the lack of necessary medicines in the pharmacy of the medical unit. While examining his medical records, it was revealed that he did not have an individual rehabilitation programme that violates Article 23 of the Law of Ukraine "On Rehabilitation of the Disabled in Ukraine." At the request of the NPM group, the medical unit applied to the medical and social expert commission to obtain and implement an individual rehabilitation programme for the patient.*

So, the NPM visits revealed systemic deficiencies in the organisation of medical support in the SPSU institutions, which leads to violations of the rights of convicts and prisoners to healthcare and medical aid.

The Commissioner sent submissions and requests to the MoJ of Ukraine and the OMA demanding the restoration of the right of convicts and prisoners to protection from *torture and cruel, inhuman or degrading treatment*, to healthcare and medical aid, etc.

#### **Recommendations to the MoJ of Ukraine:**

- Bring the planned occupancy of all PIs and PTDFs in line with the requirements of Articles 53, 64, and 115 of the CEC of Ukraine and Article 11 of the Law of Ukraine "On Remand," respectively
- Analyse the regulatory acts adopted since 2014 on optimisation of PTDFs and PIs, identify the main reasons that led to the existing violations of the established space standards per prisoner and convict in cells and living premises, and develop a complex programme to improve the living conditions of convicts and prisoners aimed at complying with the established space standards

- Ensure systematic awareness-raising activities at least once a quarter among the staff of penitentiary bodies and institutions to prevent cruel, inhuman or degrading treatment or punishment in their practice
- Develop memos on the importance of humane treatment of prisoners and convicts, respect for their human dignity, and the inadmissibility of segregation, stigmatisation, and discrimination of prisoners and convicts, with information on responsibility for such actions and provide them to junior and senior personnel of penitentiary bodies and institutions
- Amend the Instruction on Working Conditions and Wages of Persons Sentenced to Deprivation of Liberty or Imprisonment approved by Order of the MoJ of Ukraine No. 396/5 of 7 March 2013 and other regulatory acts to provide for the accrual of wages for the maintenance of convicts left for [upkeep](#) works in PIs outside the special fund of the facility, i.e., income received from the employment of convicts and funds from the deduction of convicts' wages for utilities
- Include the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the curricula for vocational training of all staff categories
- Dismantle the locks of the folding beds in the cells of DICEs and punishment cells
- Conduct explanatory work with convicts and prisoners on their basic rights and obligations and place relevant information on notice stands in public places
- Expand access of convicts and prisoners to medical services and gradual integration of penitentiary medicine into a unified medical space together with the MoH of Ukraine in accordance with the Strategy for Reforming the Penitentiary System for the period up to 2026 and approval of the Operational Plan for Its Implementation in 2022–2024 approved by the CMU Resolution No. 1153-r of 16 December 2022
- Develop and approve together with the MoH of Ukraine the Procedure for Providing Medical Care to Prisoners in PTDFs of the SPSU
- Develop and implement a programme for providing medical care to convicts aimed at in-depth diagnosis and treatment of viral hepatitis C
- Implement a programme of comprehensive treatment with SMT drugs for people with mental and behavioural disorders due to opioid use in all SPSU institutions
- Staff vacant positions in medical units and multidisciplinary hospitals of SI “Healthcare Centre of the SPSU” to ensure the rights of convicts and persons in custody to health care and quality medical aid
- Provide medical units and multidisciplinary hospitals of SI “Healthcare Centre of the SPSU” with medical equipment, medicines and medical devices in accordance with the list of material and technical equipment of healthcare facilities

#### **Recommendations to the MoH of Ukraine**

- Expand access of convicts and prisoners to medical services and gradual integration of penitentiary medicine into a unified medical space together with the MoJ of Ukraine in accordance with the Strategy for Reforming the Penitentiary System for the period up to 2026 and approval of the Operational Plan for Its Implementation in 2022–2024 approved by the CMU Resolution No. 1153-r of 16 December 2022
- Develop and approve together with the MoJ of Ukraine the Procedure for Providing Medical Care to Prisoners in PTDFs of the SPSU

### **To the State Audit Service of Ukraine**

Carry out public financial control of the activities of the Department for the Execution of Criminal Sentences and its other local authorities, SI “General Directorate of the SPSU” and its subordinate authorities, and SI “Healthcare Centre of the SPSU” aimed at the assessment of efficient, legal, targeted, and effective use and preservation of public financial resources, fixed and other assets, achieving the economy of the budget fund

### **To the Accounting Chamber of Ukraine**

Organise and conduct financial and performance audits, as well as other control measures of the public external financial control (audit) of the activities of the Department for the Execution of Criminal Sentences and its other local authorities, SI “General Directorate of the SPSU” and its subordinate authorities, and SI “Healthcare Centre of the SPSU”



# **SECTION 3**

**VIOLATION OF FUNDAMENTAL  
RIGHTS OF MAN AND CITIZEN IN THE  
PROCESS OF ADMINISTERING  
JUSTICE**

In 2023, the NPM visited 28 judicial institutions to perform its functions.

According to Article 13 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights,” the premises (rooms) for holding defendants (convicts) in courts are subject to visits by the NPM.

According to the SJA of Ukraine, the total number of courts in the government-controlled territory of Ukraine is 674 (including 37 courts of appeal and 637 local courts) as of 31 December 2023.

48 courts are equipped with civil defence facilities, which is 7.12% of the total number of courts.

### Violations of the Right to Decent Conditions for Detention

Despite the requirements of international law, recommendations based on visits to places of custody subordinated to the SJA of Ukraine, and coverage of this issue in the Commissioner’s reports, there are cells for defendants (convicts) made in the form of metal cages in the courts.

In its judgments, the ECtHR repeatedly stated that holding a person in a metal cage is considered ill-treatment (Case *Svinarenko and Slyadnev v. Russia*<sup>30</sup>).

*During a visit to Mohyliv-Podilskyy City District Court and Nemyriv Raion Court of Vinnytsia Oblast in 2023, a metal cage used to hold defendants (convicts) was found in the convoy premises.*

An insufficient number of cells for the detention of defendants in courts is a common problem in observing rights and freedoms of man and citizen. The requirements of clause 6.5.2. of SBN B.2.2-26:2010 “Buildings and Structures. Courts” approved by Order of the Ministry of Regional Development and Construction of Ukraine No. 175 of 17 May 2010 (hereinafter referred to as the “SBN”) stipulate that the number of cells for defendants (convicts) should be provided at a rate of three cells per courtroom in each courthouse for hearing criminal cases. However, almost all the courts visited by the NPM groups have insufficient cells for defendants, which violates the requirements for separate accommodation of men and women, adults and minors, as well as isolated detention of persons who are banned from talking to each other.

These violations were recorded in Bahliiskyy Raion Court of Dniprodzerzhynsk, Leninskyy Raion Court of Dnipropetrovsk, Sosnivskyy Raion Court of Cherkasy, Artsyz Raion Court of Odessa Oblast and Nemyriv Raion Court of Vinnytsia Oblast.

The CPT has repeatedly emphasised that overcrowding in the cells itself may constitute inhuman or degrading treatment.

The above violations are cause for filing further applications against Ukraine with the ECtHR.

In particular, the case of *Yaroslav Belousov v. Russia* (Applications No. 2653/13 and 60980/14 of 4 October 2016)<sup>31</sup> stated that the applicant was cramped together with other detainees in a tin cabin in the court.



<sup>30</sup> Case of *Svinarenko and Slyadnev v. Russia* (Applications): <https://hudoc.echr.coe.int/eng?i=001-153693>.

<sup>31</sup> Case of *Yaroslav Belousov v. Russia* (Applications Nos. 2653/13 and 60980/14): <https://hudoc.echr.coe.int/eng?i=001-166937>.

For these grounds, the ECtHR held that poor conditions of detention in the court violated Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and ordered the payment of significant sums of money in respect of non-pecuniary damage.

Moreover, the cells are overcrowded due to the insufficient number of cells for defendants (convicts).

Despite the requirements of international and national regulatory acts, some courts have no cells for defendants (convicts) at all.

There are no cells for defendants, in particular, in Dunaivtsi Raion Court of Khmelnytskyi Oblast, Hertsa Raion Court of Chernivtsi Oblast, Znamianka City District Court of Kirovohrad Oblast, Husiatyn Raion Court of Ternopil Oblast, and Rohatyn Raion Court of Ivano-Frankivsk Oblast.

The lack of cells for defendants (convicts) leads to situations where defendants are waiting for a court hearing in a special convoy vehicle without access to drinking water and a sanitary facility, spending a long time in unacceptable temperature conditions.

In addition, violation of the requirements of clause 6.5.2 of the SBN, namely space standards in the cells for defendants (convicts), is a common problem with observing rights and freedoms of man and citizen in courts.

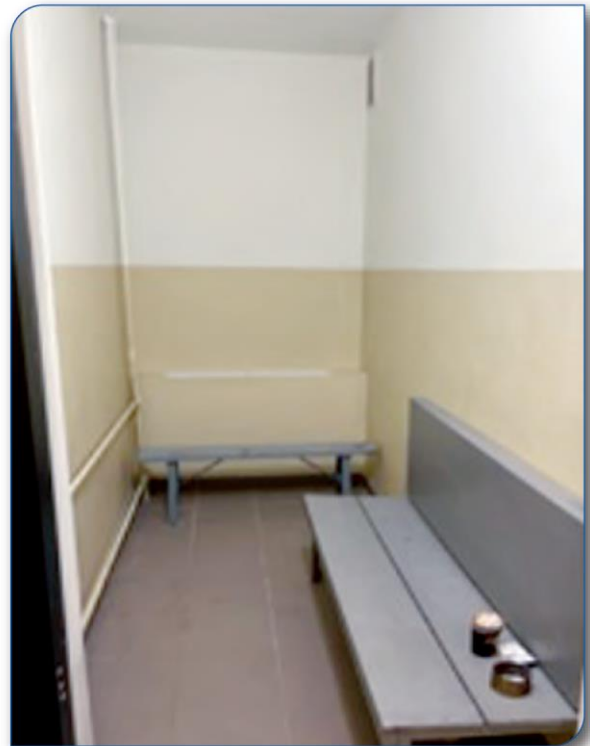
During communication with prisoners and convicts at SI "Dnipro PI No. 4", numerous complaints were received about detention conditions in the cells of Babushkynskyy Raion Court in Dnipropetrovsk. In particular, detainees stated that due to the lack of free cells, they were forced to wait for a court hearing standing several people in one cell in crowded and stuffy conditions, which prevented them from preparing for the hearing and negatively affected their well-being.

The report to the Ukrainian Government on the Visit to Ukraine Carried Out by the CPT of 15 December 2020, inter alia, states about preventing forcing persons to stand for a long time that considered ill-treatment.

Violations of space standards in the cells for defendants (convicts) were also found in Bahliiskyy Raion Court of Dniprodzerzhynsk, Leninskyi Raion Court of Dnipropetrovsk, Nizhyn City District Court of Chernihiv Oblast, Sosnivskyyi Raion Court of Cherkasy, Ternopil Court of Appeal, Pecherskyi and Podilskyi Raion Courts of Kyiv.

In addition to the violation of cell space standards and the insufficient number of cells, the defendants have to face the problem of lack of access to clean drinking water that violates clause 20 of the Standard Minimum Rules for the Treatment of Prisoners approved by the United Nations Economic and Social Council, and clause 22.5 of the European Prison Rules approved by the Committee of Ministers of the Council of Europe on 12 November 1987.

Following a visit to Vinnytsia Raion Court in Vinnytsia Oblast, the NPM group found that the defendants lacked access to clean drinking water while waiting for a court hearing. The same violation was found in Leninskyi Raion Court of Dnipropetrovsk.



### **Violation of the Right to Professional Legal Aid**

The courthouses are mostly not equipped with a room for lawyers to work with defendants (convicts), which makes it impossible to exercise their right to defence and constitutes a violation of the requirements of clause 6.5.2 of the SBN, Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 59 of the Constitution of Ukraine.

There are no such premises in Dunaivtsi Raion Court of Khmelnytskyi Oblast, Hertsa Raion Court of Chernivtsi Oblast, Znamianka City District Court of Kirovohrad Oblast, Bahliiskyi Raion Court of Dniprodzerzhynsk, Teplodar City Court of Odesa Oblast, Leninskyi Raion Court of Dnipropetrovsk, Sosnivskiy Raion Court of Cherkasy and Pecherskyi Raion Court of Kyiv.

In the 21st General Report, the CPT emphasises the need for a meeting between a lawyer and a detainee to be held in private and direct physical presence so that the detainee can feel free to disclose how he is being treated. The CPT fails to see any need for derogations to the confidentiality of meetings between the lawyer and the person concerned.

In addition, this violation may lead to further applications to the ECHR and the payment of significant amounts of compensation by Ukraine.

In the case of *Firstov v. Russia* (Application No. 67312/12)<sup>32</sup>, the ECtHR stated that although the defendant could communicate with his counsel through the barriers in the courtroom, in particular during breaks announced by the judge for this purpose at the applicant's petition, it was not proved that such consultations were confidential due to the presence of the convoy within hearing distance. Therefore, the ECtHR recorded a violation of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

### **Violation of the Right to Security in Court**

Some courts fail to comply with clause 13 of the Instruction on the Organisation of Escort and Detention in Courts of Accused (Defendants) at the Request of Courts approved by Joint Order of the MIA of Ukraine, the MoJ of Ukraine, Supreme Court of Ukraine, High Specialised Court of Ukraine for Civil and Criminal Cases, the SJA of Ukraine, and Prosecutor General's Office No. 613/785/5/30/29/67/68<sup>33</sup> of 26 May 2015 (hereinafter referred to as the "Instruction") on ensuring isolated routes for escorting defendants (convicts) from their cells to the courtroom, and therefore, defendants (convicts) are escorted through corridors open to unauthorised persons and have the opportunity to contact visitors or persons who are banned from talking to each other.

This violation was found in Khust Raion Court of Zakarpattia Oblast, Leninskyi Raion Court of Poltava, Zinkiv Raion Court of Poltava Oblast, Rivne City Court of Rivne Oblast, Kotovskyi City District Court of Odesa Oblast, Hertsa Raion Court of Chernivtsi Oblast, Husiatyn Raion Court of Ternopil Oblast, Leninskyi Raion Court of Dnipropetrovsk, Rohatyn Raion Court of Ivano-Frankivsk Oblast, etc.

Due to the lack of a separate sanitary facility for defendants (convicts) in some courts, they use the same toilet as visitors, which creates additional risks of prohibited items getting into the hands of defendants (convicts) and violates the requirements of clause 6.5.2 of the SBN.

<sup>32</sup> Case of *Firstov v. Russia* (Application No. 42119/04: <https://hudoc.echr.coe.int/eng?i=001-140911>).

<sup>33</sup> Order of the Ministry of Internal Affairs of Ukraine, the Ministry of Justice of Ukraine, Supreme Court of Ukraine, High Specialised Court of Ukraine for Civil and Criminal Cases, the State Judicial Administration of Ukraine, and Prosecutor General's Office No. 613/785/5/30/29/67/68 of 26 May 2015 "On Approval of the Instruction on the Organisation of Escort and Detention in Courts of Accused (Defendants) at the Request of Courts": <https://zakon.rada.gov.ua/laws/show/z0698-15#Text>.

For example, there is no separate sanitary facility for defendants (convicts) in Hertsa Raion Court of Chernivtsi Oblast, Sosnytsia Raion Court of Chernihiv Oblast, Znamianka City District Court of Kirovohrad Oblast, Rohatyn Raion Court of Ivano-Frankivsk Oblast, etc.

A lack of boxes for the arrival of a special convoy vehicle or fenced car park for a special guard vehicle, which violates the requirements of clause 14 of the Instruction, is a common problem of violation of the right to security in court. A convoy vehicle usually arrives for boarding (disembarking) defendants (convicts) through a backyard that is not fenced, which increases the risk of escape of defendants and endangers the life and health of defendants, visitors, and court staff.

This violation was found in Krasnohvardiiskiy Raion Court of Dnipropetrovsk, Solone Raion Court of Dnipropetrovsk Oblast, Dunavtsi Raion Court of Khmelnytskyi Oblast, Teplodar City Court of Odesa Oblast, and Husiatin Raion Court of Ternopil Oblast.

In addition, Babushkynskiy Raion Court of Dnipropetrovsk does not even have a separate entrance for escorting accused and convicts to the courtroom. Defendants (convicts) use the same entrance as visitors.

### **Violation of the Right to Life**

At the time of the visit to many courts, temporary shelters are not equipped, which can lead to violations of the right to life of defendants, court staff and visitors during the air-raid alarm.

In Teplodar City Court of Odesa Oblast, Solone Raion Court of Dnipropetrovsk Oblast, Krasnohvardiiskiy Raion Court of Dnipropetrovsk, Leninskyi Raion Court of Dnipropetrovsk, Nizhyn City District Court of Chernihiv Oblast, Podilskiy Raion Court of Kyiv, etc., court staff and visitors use shelters that are closest to the court building.

Some courts also violate the requirements of clause 3.19 of Part V of the Fire Safety Regulations in Ukraine, approved by Order of the MIA of Ukraine No. 1417 of 30 December 2014.

When the NPM groups visited Hertsa Raion Court of Chernivtsi Oblast and Bahliiskiy Raion Court of Dniprodzerzhynsk, they found fire extinguishers with expired service life.

### **Violation of the Rights of Persons with Reduced Mobility**

In some courts, access to the first floor and above, where courtrooms are located, is impossible for people with reduced mobility and defendants (convicts) using wheelchairs due to the lack of a ramp or other lifting mechanism.

These violations were found in Zaporizhzhia Raion Court of Zaporizhzhia Oblast, Babushkynskiy Raion Court of Dnipropetrovsk, Husiatyn Raion Court of Ternopil Oblast, Leninskyi Raion Court of Dnipropetrovsk and Nizhyn City District Court of Chernihiv Oblast.

The courts violated the requirements of clause 11.5 of SBN 2.2-40:2018 "Inclusiveness of Buildings and Structures. Main Provisions"<sup>34</sup> approved by Order of the Ministry of Regional Development, Construction, and Housing of Ukraine No. 327 of 30 November 2018, namely, sanitary rooms are not adapted for use by people with reduced mobility.

It is also impossible for people with reduced mobility to enter the courtroom in some courts due to the lack of a ramp at the entrance of the court buildings equipped with stairs.

<sup>34</sup> SBN B.2.2-40:2018 Inclusiveness of Buildings and Structures: [https://dbn.co.ua/load/normativy/dbn/dbn\\_v\\_2\\_2\\_40/1-1-0-1832](https://dbn.co.ua/load/normativy/dbn/dbn_v_2_2_40/1-1-0-1832).





There are no ramps at the entrance to Dunaivtsi Raion Court of Khmelnytskyi Oblast, Hertsya Raion Court of Chernivtsi Oblast, Babushkynskyy Raionnyy Sud of Dnipropetrovsk, Teplodar City Court of Odesa Oblast, and Husiatyn Raion Court of Ternopil Oblast.

**Recommendations to the State Judicial Administration of Ukraine:**

- Audit courthouses to identify cages used to hold defendants/convicts and take urgent measures to dismantle them
- Develop and submit draft amendments to the Instruction on the Organisation of Escort and Detention in Courts of Accused (Defendants) and Convicts at the Request of Courts approved by Order of the MIA of Ukraine, the MoJ of Ukraine, Supreme Court of Ukraine, High Specialised Court of Ukraine for Civil and Criminal Cases, the SJA of Ukraine, and Prosecutor General's Office No. 613/785/5/30/29/67/68 of 26 May 2015, in terms of reviewing the routes for escorting from special vehicles to cells and courtrooms and vice versa, the operability of engineering security and communication means, and the provision of engineering means to ensure reliable security. Draw up the relevant inspection reports. Use this information in the formation of budgetary needs for the next year, if necessary
- Ensure free access of defendants (convicts) to clean drinking water
- Equip the simplest shelters in court buildings

# **SECTION 4**

**VIOLATION OF FUNDAMENTAL  
RIGHTS OF MAN AND CITIZEN IN  
PLACES OF CUSTODY  
SUBORDINATED TO THE MIA OF  
UKRAINE**

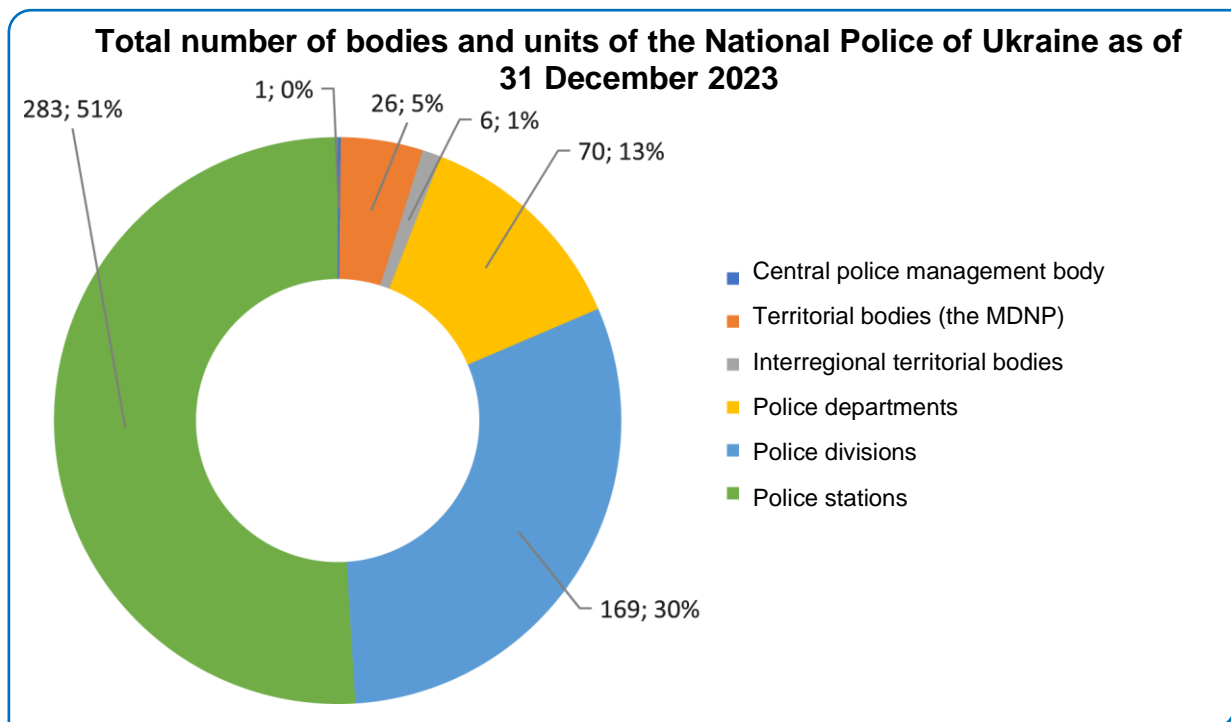
## 4.1. General Overview of Places of Custody Subordinated to the National Police of Ukraine

The activities of the National Police, which implements the state policy in the areas of protection of human rights and freedoms, interests of society and the state, combating crime, and maintaining public security and order, are directed and coordinated by the CMU through the Minister of Internal Affairs.

The legislation of Ukraine stipulates that the National Police is authorised to detain persons on the grounds, in the manner and for the periods defined by [the Constitution of Ukraine](#), the CrPCU, [the Code of Ukraine on Administrative Offences](#)<sup>35</sup>, and other laws of Ukraine, and to keep them in specially equipped places, and therefore, in 2023, close attention was paid to the observance of the rights of man and citizen in places of custody subordinated to the National Police of Ukraine, because the risk of physical violence to a detainee is greatest in the immediate aftermath of his or her detention.

The network of the National Police's detention facilities is the largest among other law enforcement agencies.

There are 2 types of places of custody of the National Police: official (institutions specially equipped for the detention of persons, vehicles for escorting detainees, persons in custody and convicts) and unofficial (officers' offices, investigators' rooms, and any premises used by the Police where persons may be held against their will).



As of 31 December 2023, places specially equipped for detention included:

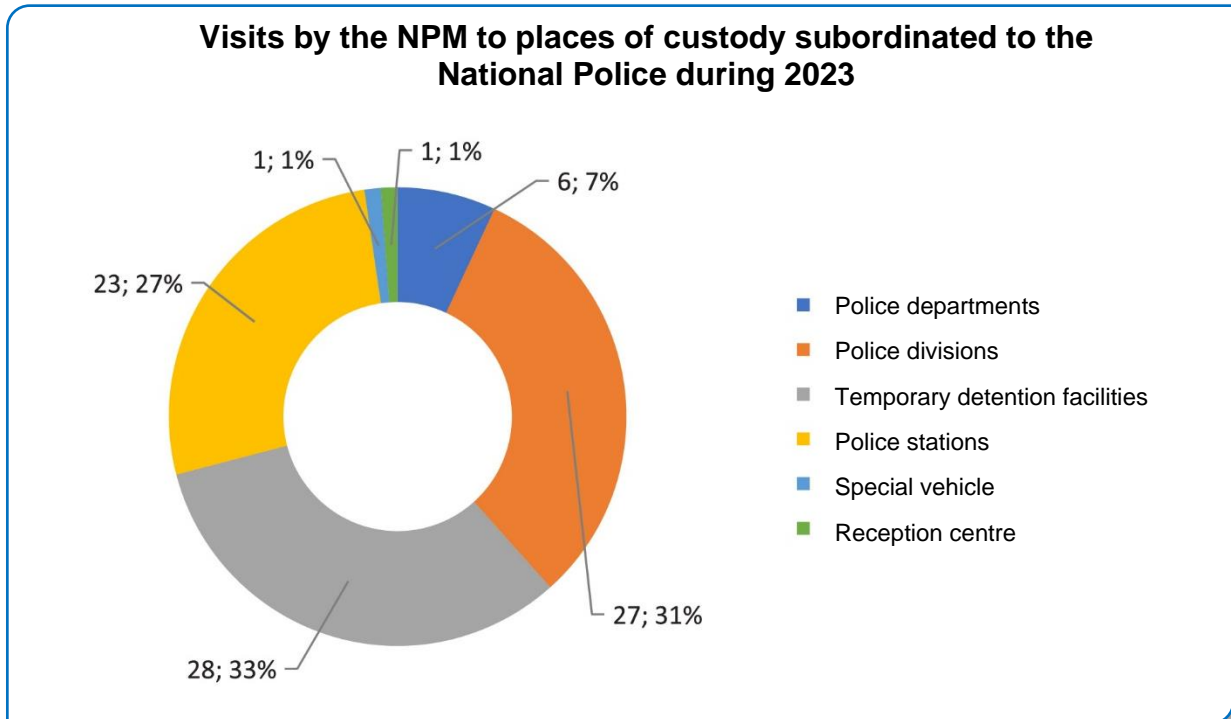
- 109 TDFs, where 34,128 persons were held during the year
- 621 RDs in police bodies and units, where 2,184 persons were held during the year
- 160 vehicles for transporting detainees, persons in custody and convicts
- 3 reception centres

<sup>35</sup> Code of Ukraine on Administrative Offences: <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.



As of 31 December 2023, operations of 28 TDFs were temporarily suspended (9 – due to reconstruction and repair, 3 – the issue of their liquidation or repair is being resolved, 6 – due to hostilities, 4 are destroyed (partially destroyed) during the Russian armed against Ukraine, and 6 are located in the TOT). 81 TDFs continue to function normally.

In 2023, employees of the Commissioner’s Secretariat together with representatives of the public visited 86 places of custody subordinated to the National Police, including:

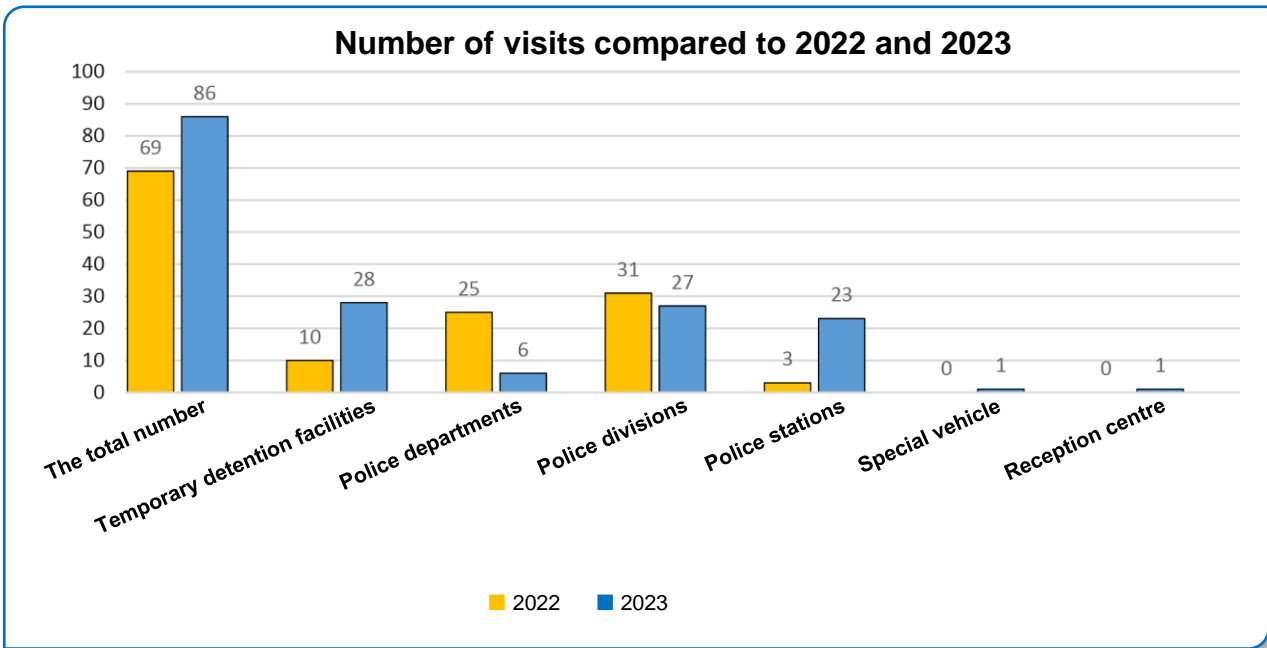


To address the problematic issues of ill-treatment of detainees, the MIA of Ukraine together with the National Police of Ukraine, international partners and NGOs prepared and partially implemented the Custody Records information subsystem based on international experience.

The Custody Records information subsystem is designed to ensure the security of the rights of detainees and police officers by electronically recording information on all actions taken against persons under police control from the moment of actual detention until placement in PTDf or release from custody.

As of 1 December 2023, the Custody Records pilot project was implemented in 79 units of the National Police of Ukraine and 81 TDFs of territorial police bodies.

Despite the positive trends in ensuring the observance of the constitutional rights and freedoms of detainees, during visits to places of custody of the National Police of Ukraine in 2023, violations by police officers during the detention of persons and their stay in the bodies and units of the National Police continued to be identified, as reflected in the relevant reports and requests.



## 4.2. Major Problems with the Observance of Rights and Freedoms of Detainees by the National Police of Ukraine

### Right to Protection from Torture, Cruel or Degrading Treatment or Punishment

Torture is a problem for law enforcement agencies in any country. Ukraine is no exception, where the police deal with a significant number of cases of torture and ill-treatment. As with any crime, torture is an inherent social phenomenon. The task of the NPM is to create a system of prevention and control so that torture disappears or becomes isolated incidents that are not systematic.

The identification of facts of torture is one of the priorities during the NPM’s visits.

According to Article 4 of the Convention against Torture, each State Party shall ensure that all acts of torture are considered a crime under its criminal law. This means that every case of use of force by law enforcement officers against detainees must be thoroughly and impartially investigated.

The formal official and pre-trial investigations into torture and the failure to bring perpetrators to justice in accordance with the law leads to an increase in the number of such cases.

The CPT (14th General Report CPT/Inf(2004)28) has stated that the credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity. All efforts to promote human rights principles through strict recruitment policies and professional training will be sabotaged. In failing to take effective action, the persons concerned – colleagues, senior managers, investigating authorities – will ultimately contribute to the corrosion of the values which constitute the very foundations of a democratic society.

However, the NPM groups have recorded cases of improper consideration of citizens' reports of physical force used by police officers against them in violation of the law.

During a visit to the Lutsk Raion Police Department of Volyn Oblast MDNP, it was established that during 10 months of 2023, the PD received 400 reports from citizens about the police officers' actions, including 108 about beatings.

In violation of part 4 of Article 216 of the CrPCU and part 3 of Article 8 of the Law of Ukraine "On the State Bureau of Investigation"<sup>36</sup>, a negative practice exists in the PD when the investigative office of the agency considers information on criminal offences that, according to the applicants (victims), were committed by police officers, without timely and urgent notification of the relevant territorial department of the State Bureau of Investigation and the relevant entrance of such information in the URPTI.

As a result, only 2 cases out of all reports of possible unlawful acts of police officers were entered into the URPTI, which may indicate a possible concealment of criminal offences that required a response from the State Bureau of Investigation.

Information on inadequate consideration of citizens' reports of physical force used by police officers against them was forwarded to the State Bureau of Investigation and Prosecutor General's Office for response.

In 2012, a new CrPCU came into force and provided additional guarantees for the protection of detainees from ill-treatment by the police. Each pre-trial investigation body shall appoint an official responsible for observing the rights of detainees.

Visits to the NPM in 2023 showed that in most units, those responsible for detainees' custody performed functions and tasks that were not typical for them. Other employees were assigned the responsibility for ensuring the rights of detainees as an additional workload, i.e., those appointed did not have time to deal directly with the duties stipulated by the criminal procedure law.

In addition, given that the police work around the clock, detention can occur at any time. To maintain initial contact with the detainees and monitor proper treatment by the police, it is necessary to stay in the unit around the clock, immediately inform the persons of their rights, inquire if they need healthcare, check if the FLA centres have been notified of their detention or there are any complaints, and record what happens to them throughout the time. However, officials responsible for observing the rights of detainees in many police units are limited to working hours from 09:00 to 18:00. Therefore, the fulfilment of their duties is limited to merely formal documentation, and in some cases, they are not fulfilled at all.



<sup>36</sup> Law of Ukraine "On the State Bureau of Investigation": <https://zakon.rada.gov.ua/laws/show/794-19#Text>.

During a visit to the Shevchenkivskyy MDNP Police Department in Kyiv, an inspector and a senior inspector of the Investigation Department were entrusted with the duties of officials responsible for detainees' custody in accordance with the order of the Head of the Police Department.

During the review of the official documentation of the mentioned officials, it was established that, since the working hours of the officials are set from 09:00 to 18:00, the requirements stipulated by Articles 212 and 213 of the CrPCU are not fulfilled for persons detained outside their working hours.

During the visits to Brovary Raion Police Department of Kyiv Oblast MDNP and Police Division No. 1 of Bila Tserkva Raion Police Department of Kyiv Oblast MDNP, it was found that officials responsible for detainees' custody failed to fulfil their duties stipulated by the criminal procedure legislation.

During the visits to Kalush Raion Police Division of Ivano-Frankivsk Oblast MDNP, Police Division No. 1 of Lviv Raion Police Department No. 1 of Lviv Oblast MDNP, Police Station No. 2 of Dnipro Raion Police Department of Dnipro Oblast MDNP, and Police Station No. 2 of Kolomyia Raion Police Department of Ivano-Frankivsk Oblast MDNP, there were cases of partial fulfilment of functional duties by officials responsible for observing detainees' rights.

The CPT has repeatedly stated that detection of suspicious items in police premises such as wooden clubs, mop handles, baseball bats, metal rods, heavy cable or fake guns or knives has repeatedly supported conclusions about intimidation and/or beating of persons in custody.

However, despite the imperative requirements of both national and international legislation, the mentioned facts continue to be revealed in the units of the National Police.

During a visual inspection of investigators' offices in Kharkiv Raion Police Department No. 1 of Kharkiv MDNP, a sports item – a wooden club – was kept behind the safe in office No. 224 of investigator O. The investigator stated that it was material evidence, but after being asked why it was not in a bag and not sealed, he admitted that it was his personal item. So, it can be assumed that the sports item is used to inflict bodily harm on persons detained, delivered and taken into custody.

National legislation prohibits investigative actions and other measures (interviews, meetings with a defence counsel, etc.) necessary for a complete, comprehensive and objective investigation of the circumstances of crimes involving persons detained on suspicion of committing them in any premises of police bodies and units, except for investigative rooms.

To ensure the rights of detainees, consideration of the circumstances of their detention or delivery to the police, interviews, and other procedural actions with visitors, invited and delivered persons shall be carried out in specially designated office premises, and if there are no specially designated and equipped office premises in the administrative building of the police body (unit) or they are insufficient to ensure the police powers, interviews, and other procedural actions with visitors and persons invited and delivered to the police may be carried out in the police officers' offices designated by the head, with video recording of such actions in accordance within the established procedure.

However, during their visits to most police units, the NPM groups recorded cases of procedural actions with detainees in the offices without proper video recording of such actions.

During the visits to Brovary Raion Police Department of Kyiv Oblast MDNP and Police Division No. 1 of Bila Tserkva Raion Police Department of Kyiv Oblast MDNP, it was established that there is no room for investigative actions in the police department, and procedural actions with detainees are carried out in investigators' offices without proper video recording.

Similar facts were also revealed in Police Division No. 1 of Ternopil Raion Police Department of Ternopil Oblast MDNP, Kharkiv Raion Police Department No. 1 of Kharkiv Oblast MDNP, Police Division No. 1 of Lviv Raion Police Department No. 1 of Lviv Oblast MDNP, etc.

In the 2nd General Report [CPT/Inf(92)3], the CPT emphasised that electronic recording of police interviews is another useful safeguard against the ill-treatment of detainees that provides significant benefits to the police themselves, as it eliminates unfounded allegations of physical or psychological abuse. Recording of police interviews will also reduce the likelihood of detainees deliberately recanting their previous testimony.

In turn, national legislation also stipulates that the offices where procedural actions are carried out with visitors and persons invited and delivered to the police are covered by a round-the-clock video surveillance system with the possibility of storing records for at least 30 days, with mandatory real-time video output to the duty officer's monitor.

However, many police units do not meet these requirements.

During a visit to Police Station No. 2 of Stryi Raion Police Department of Lviv Oblast MDNP, it was found that video surveillance was not archived on its premises.

During a visit to Police Station No. 1 of Berehove Raion Police Division of Zakarpattia Oblast MDNP, it was found that video surveillance is archived only for 20 days.



### **Right to Freedom and Personal Inviolability**

According to Article 29 of the Constitution of Ukraine<sup>37</sup>, every person shall have the right to freedom and personal inviolability. No one shall be arrested or held in custody except under a substantiated court decision and on the grounds and in accordance with the procedure established by law.

The criminal procedure legislation of Ukraine clearly regulates the actions of authorised officials conducting detention. The course and results of the procedural action are recorded in a protocol, and a person is detained from the moment they are forced to remain with the authorised official or in the premises designated by the authorised official by force or by obeying an order.

The urgency of carrying out investigative actions should not prevent police officers from drawing up relevant protocols.

The ECtHR practice (Case of Grubnyk v. Ukraine, etc.) has shown that the absence of any official documents on detention immediately after will lead to avoidance of procedural guarantees and worsen the situation of the detainee, as they will not be informed of their right to remain silent and a defence counsel.

Unacknowledged detention (in the absence of a detention protocol) denies the fundamentally important guarantees provided for in Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

During a visit to Police Station No. 5 of Dnipro Raion Police Department of Dnipro Oblast MDNP, it was established that, according to the information entered into the detention protocol, Ch. was under police control (including directly at the police station) without a protocol being drawn up for at least 11 hours and 40 minutes from the moment of actual detention.

<sup>37</sup> Section II of the Constitution of Ukraine: <https://www.president.gov.ua/ua/documents/constitution/konstituciya-ukrayini-rozdil-ii>.



### **Violation of the Right to Professional Legal Aid**

An important role in ensuring the implementation, protection, and defence of the rights and freedoms of man and citizen in Ukraine as a democratic state governed by the rule of law is assigned to the right to legal aid recognised by Article 59 of the Constitution of Ukraine. This right is one of the constitutional and inalienable human rights. In the context of part 1 of this Article, "everyone shall have the right to legal aid", the term "everyone" covers all persons without exception.

The preventive function of the right to legal aid facilitates the legitimate exercise of human rights and freedoms and is primarily aimed at preventing possible violations or unlawful restrictions of the rights and freedoms of man and citizen by public authorities, their officials, and employees.

The risk of intimidation and physical violence of a detainee is greatest immediately after they are taken into custody. So, the ability of detainees to engage a lawyer during this period is a guarantee against ill-treatment.

The facts of violations of detainees' rights to access a defence counsel have already been reflected in the decisions of the ECtHR, which also noted "the particular vulnerability of the accused in the early stages of the proceedings when they simultaneously face a stressful situation and increasingly complex criminal law."

However, despite the requirements of national and international law, many violations of the right to legal aid were identified during visits in 2023, as police officers failed to immediately notify the centres for free secondary legal aid of the facts of detention.

During a visit to Brovary Raion Police Department of Kyiv Oblast MDNP, the officials of the Department informed the centre about the detention of citizen S. on 17 January 2023 at 06:00 on the same day at 13:00, i.e., 7 hours later. The same violations were recorded in 2022, but the raion department management did not take the necessary measures to prevent violations of the right to professional legal aid.

Visits in 2023 showed similar violations in almost all territorial police units.

### **Violations of the Right to Adequate Conditions of Detention**

According to national law and international standards, a person held in police custody must be provided with sleeping accommodation, water, food, hygiene products etc., and by acceding to the European Convention on Human Rights, Ukraine undertook to ensure adequate conditions of detention.

Throughout the year, special attention was paid to the RD functioning in the territorial units of the National Police of Ukraine, as keeping persons without placing them in such rooms leads to their prolonged detention under police control in a manner not provided for by law, without necessary food, drinking water, free access to the sanitary facility, and the right to rest at night.

During a visit to Brovary Raion Police Department of Kyiv Oblast MDNP, it was established that police officers detained citizen R. on 1 February 2023 at 19:30, who, due to the lack of an RD, was placed in a TDF only on 2 February 2023 at 23:45, i.e., 28 hours and 15 minutes after his arrest.

This problem is systemic. As of 31 December 2023, only 268 RDs were functioning in the National Police units, which is 43% of the total number. These rooms are mostly out of operation due to the inconsistency of their detention conditions with national and international standards. However, during the visits, it was established that the RD operation was suspended without such a need.

During a visit to Police Division No. 1 of Bila Tserkva Raion Department of Kyiv Oblast MDNP on 3 October 2023, it was established that the RD has not been used since 2012 due to non-compliance with national and international standards. However, no supporting documents on the cessation of the room's operation and the non-compliance of its detention conditions were provided to the NPM group.

Following the Commissioner's response, the operation of the police division's RD was restored and adequate conditions for detainees were ensured in accordance with the law.

Similar cases of non-operation or suspension of the RDs were also established during visits to Police Station No. 1 of Nadvirna Raion Police Division of Ivano-Frankivsk Oblast MDNP, Police Station No. 2 of Stryi Raion Police Department of Lviv Oblast MDNP, Police Station No. 1 of Berehove Raion Police Division of Zakarpattia Oblast MDNP, Police Station No. 1 of Kharkiv Raion Police Department No. 3 of Kharkiv Oblast MDNP and other police units.

This year, as in previous years, special attention was paid to the issue of proper detention in TDFs.

The visits revealed numerous violations of the requirements for proper detention of detainees and sanitary standards in almost all the visited TDFs, in particular:

- Insufficient level of lighting
- Poor sanitary conditions of cells and shower facilities
- Lack of access to fresh air

During a visit to the cells for detainees of TDF No. 1 of the Main Department of the National Police in Zakarpattia Oblast, it was established that the premises are in an unsanitary condition. There is an unpleasant smell, dampness, and mould on the walls of the cells. Access to daylight is limited due to heavily barred windows, and there is no forced ventilation.

It was found that the cells are not equipped with a call button for the detention facility staff. The video surveillance system in the TDF covers the entire cell, including the sanitary facilities.

During a visit to TDF No. 1 of the Main Department of the National Police in Volyn Oblast, the video surveillance system for detainees covers the entire cell, including the sanitary facilities. A similar fact was also established during a visit to TDF No. 1 of the Main Department of the National Police in Ternopil Oblast. It was also found that the planned capacity of the detention facilities does not meet the requirements of national legislation and international standards. The cells are not equipped with terrestrial television antennas and radio speakers, which deprives detainees of the opportunity to receive information about social events.



### **Violation of the Right to Healthcare and Medical Aid**

The Law of Ukraine "On the National Police" stipulates that the main duties of a police officer include, inter alia, the provision of emergency, first aid and medical aid to persons who have suffered from offences, accidents, as well as to persons being in a helpless state or a state dangerous to their life or health.

During the visits, the NPM group recorded expired medicines in the first aid kits of territorial police units and the failure to pass advanced training by persons required to have the knowledge and practical skills of first aid in accordance with their official duties.

During a visit to Police Division No. 1 of Bila Tserkva Raion Department of Kyiv Oblast MDNP, it was found that only 9 officers out of 95 had been trained in the knowledge and practical skills of first aid and received the relevant certificates.



During a visit to Police Station No. 10 of Dnipro Raion Police Department of Dnipro Oblast MDNP, expired medicines unsuitable for use were found in first aid kits.



### 4.3. General Overview of Places of Custody Subordinated to the SMS of Ukraine

The official places of custody of the SMS of Ukraine include institutions specially equipped for the detention of persons, vehicles for escorting detainees and persons taken into custody, as well as offices used by the SMS where persons may be held against their will.

As of 31 December 2024, the total number of places specially equipped for detention included:

- 3 temporary detention facilities for foreigners and stateless persons (Mykolaiv and Volyn TDFFs continue to operate fully. In 2023, 362 persons were held in the TDFFs. Due to imposing martial law and taking into account the territorial location of the facility, foreigners and stateless persons have not been accommodated in Chernihiv TDFF since 25 February 2022)
- 18 vehicles for escorting detainees

In 2023, employees of the Commissioner’s Secretariat together with NGO representatives visited four places of custody subordinated to the SMS, including:

- 1 main territorial department of the SMS
- 2 territorial departments of the SMS
- 1 TDFF

In 2023, the visits to the SMS places of custody revealed some violations of constitutional human rights and freedoms by the SMS staff during the detention, escort and stay of foreigners and stateless persons in the SMS bodies and units, as reflected in the relevant reports and requests.

## 4.4. Main Problems of Observing the Rights and Freedoms of Detainees by the SMS of Ukraine

### Right to Protection from Torture, Cruel or Degrading Treatment or Punishment

In 2023, the NPM visited the territorial units of the SMS of Ukraine as places of detention for the first time.

International and national regulatory acts stipulate 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 or other cruel, inhuman or degrading treatment or punishment.

It should be noted that the visits identified a number of problematic issues in the SMS activities to ensure the observance of the rights and freedoms of man and citizen.

Prolonged detention of foreigners in custody under the control of the SMS officials in a manner not provided for by law is one of the main problems.

According to the Regulation on the SMS of Ukraine approved by CMU Resolution No. 360 of 20 August 2014, the SMS shall be entitled to create conditions for the temporary detention of foreigners and stateless persons detained for illegal stay in Ukraine until the issue of their forced expulsion or placement in a temporary detention facility for foreigners and stateless persons illegally staying in Ukraine is resolved by allocating premises in the territorial bodies of the SMS. Currently, the territorial units of the SMS do not have premises for temporary detention of detainees. Foreign nationals are kept for a long time in unequipped premises for long-term detention, namely the employees' offices, during the procedural actions on a decision on their forced expulsion.

During the visits, the NPM groups found that detained foreign nationals were held under the control of officials for more than 13 hours in the Main Department of the SMS in Lviv Oblast, more than 15 hours in the SMS in Khmelnytskyi Oblast, and more than 8 hours in the SMS in Ternopil Oblast.

The stay of detained persons in the SMS unit, the SMS official vehicle, courtroom, or medical facility leads to keeping foreigners in detention conditions in a manner not provided for by law, without necessary food, drinking water, free access to the sanitary facility, etc.

In its reports, the CPT notes that foreigners deprived of their liberty are particularly vulnerable to various forms of ill-treatment, both at the time of their arrest and during detention and deportation procedures.

SMS officials are not authorised to use physical force and special means. The occurrence of an unforeseen situation during the escort of foreigners (an attempt to escape, failure to meet a legal requirement of an SMS official, an attack on an SMS employee) will fail to fulfil the tasks assigned to the SMS of Ukraine to prevent and combat illegal (irregular) migration or excess of official powers by an SMS official and violation of the detainees' rights.

### **Violations of the Right to Adequate Conditions of Detention**

Due to the lack of special places for the temporary detention of foreign nationals in the SMS territorial units, SMS officials are forced to take foreigners as quickly as possible to TDFFs (often at night), which are located at a significant distance from the territorial units.

For example, the nearest TDFF is located more than 190 kilometres from the Main Department of the SMS of Ukraine in Lviv Oblast, more than 260 kilometres from the Department of the SMS of Ukraine in Khmelnytskyi Oblast and more than 200 kilometres from the Department of the SMS of Ukraine in Ternopil Oblast.

In addition, some territorial units escort foreigners to courtrooms, medical facilities and TDFFs by vehicles not designed to transport detainees.

The visits revealed a lack of regulatory acts of the SMS/MIA of Ukraine or their inconsistency with the standards for the proper detention of detainees, in particular:

- Lack of regulatory acts of the SMS/MIA of Ukraine on the provision of food to foreigners under the control of SMS officials before placing them in a temporary detention facility for foreigners (hereinafter referred to as the “TDFF”)

- Regulatory acts of the SMS/MIA of Ukraine do not provide for keeping records (registers, etc.) in the territorial units of the SMS that would contain information about the time of foreigner’s stay in the territorial unit of the SMS

- Certificate of transfer of foreigners to the TDFF drawn up by the administration of such a facility and the SMS body/unit that delivered the foreigners. According to Annex 1 of the Instruction on the Procedure for Detention of Foreigners and Stateless Persons in Temporary Detention Facilities for Foreigners and Stateless Persons Illegally Staying in Ukraine approved by Order of the MIA of Ukraine No. 141<sup>38</sup> of 29 February 2016, it contains only the date of transfer of the foreigner and no information on exact time (hours and minutes) of the transfer.

### **Right to Freedom and Personal Inviolability**

There are objective doubts about the reliability of the information on the voluntary stay of foreign nationals in the SMS territorial units while officials conduct procedural actions on bringing to administrative responsibility, make decisions on forced return to the country of origin or a third country, and sometimes make decisions on forced expulsion.

In particular, during the visits to the Main Department of the SMS of Ukraine in Lviv Oblast, the Department of the SMS of Ukraine in Khmelnytskyi Oblast, and the Department of the SMS of Ukraine in Ternopil Oblast, it was found that no foreigners were detained during the decision-making process on forced return.

At the same time, during confidential interviews with foreigners and stateless persons held in Volyn TDFF, there were numerous complaints that information on the actual time of their detention, which was included in the administrative detention protocols, was not true.

According to citizen K., she was detained by officials of the Department of the SMS of Ukraine in Ternopil Oblast on 14 February 2023 at about 09:00 2023 immediately after her release from SI “Zbarazh Correctional Colony (No. 63)”. Then, she was taken to the territorial unit of the SMS under the control of officials of the Department of the SMS of Ukraine in Ternopil Oblast. By obeying an order, she was forced to remain with the authorised officials or in the premises designated by the authorised official. However, in violation of Article 261 of the Code of Ukraine on Administrative Offences, the chief specialist of the Zbarazh Department of the State Migration Service of Ukraine in Ternopil Oblast noted in the administrative detention protocol that the foreign national was detained at 14:37 (5 hours and 37 minutes after the actual detention). K. was placed in the TDFF on the same day at 19:20, but she was not provided with food while being under the control of the officials of the Department of the State Migration Service of Ukraine in Ternopil Oblast (more than 10 hours).

<sup>38</sup> Order of the Ministry of Internal Affairs of Ukraine No. 141 of 29 February 2016 “On Approval of the Instruction on the Procedure for Detention of Foreigners and Stateless Persons in Temporary Detention Facilities for Foreigners and Stateless Persons Illegally Staying in Ukraine”: <https://zakon.rada.gov.ua/laws/show/z0748-16#Text>.

The same facts were also revealed during the detention by officials of the Department of the State Migration Service of Ukraine in Khmelnytskyi Oblast.

In addition, during a visit to the Main Department of the SMS of Ukraine in Lviv Oblast, it was found that during the detention of citizen V., the administrative detention report noted that he was taken to the facility and detained on 18 May 2022 at 11:02 to establish the identity of the offender. According to the release certificate available in the case file on forced expulsion, it was established that on the same day, on 18 May 2022, citizen V. was released from Drohobych Correctional Colony (No. 40). Taking into account all the circumstances, there are good reasons to believe that the foreign national was detained earlier by an authorised official of the SMS (at the location of Drohobych Correctional Colony (No. 40)). However, the detention was documented only on 18 May 2022 at 11:02 after being brought to the premises of the Main Department of the SMS of Ukraine in Lviv Oblast, i.e., the time of delivery was not included in the calculation of the administrative detention period.

In its judgments (*Kushnir v. Ukraine*, *Nechiporuk and Yonkalo v. Ukraine*), the ECtHR emphasises that the undocumented detention of a person shows an absolute disregard for the fundamentally important guarantees of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms and constitutes a gross violation of this Article (the right to freedom and personal inviolability).

### **Violation of the Right to Professional Legal Aid**

There are doubts about the reliability of the information regarding the awareness of detained foreign nationals of the right and opportunity to obtain FLA under the Law of Ukraine “On Free Legal Aid.”

In administrative detention protocols drawn up in Ukrainian, all foreigners sign next to a printed inscription stating that they do not need the services of an interpreter and that they are familiar with their rights and obligations. However, court decisions on detention and expulsion show that foreign nationals required the assistance of an interpreter because they did not speak Ukrainian at an appropriate level (Decision of Kivertsi Raion Court of Volyn Oblast of 9 September 2022 (Case No. 158/1916/22)<sup>39</sup>).

During confidential interviews with foreigners and stateless persons held in Volyn TDFF, there were many complaints that they were not informed of their right and opportunity to obtain free secondary legal aid in accordance with the Law of Ukraine “On Free Legal Aid,” because, not being proficient in Ukrainian, they did not understand the content of the protocol on administrative detention, and in violation of clause 9 of [the Instruction on the Forced Return and Expulsion of Foreign Nationals and Stateless Persons from Ukraine](#) approved by Order of the MIA of Ukraine, Administration of the State Border Guard Service of Ukraine, and the Security Service of Ukraine No. 353/271/150 of 23 April 2012, the SMS officials failed to immediately inform the FLA centre in each case of detention of a foreigner for more than three hours.

According to citizen Ya., it was established that he was detained by officials of the Central Interregional Directorate of the SMS of Ukraine in Kyiv and Kyiv Oblast, but he was not informed of his right and opportunity to obtain free secondary legal aid, which is confirmed by the protocol on administrative detention drawn up by the chief specialist of the Central Interregional Directorate of the SMS of Ukraine in Kyiv and Kyiv Oblast (there is no signature of the foreign national about familiarisation with the rights and obligations). According to Ya., the officials of the SMS of Ukraine took away his phone and did not allow him to call his lawyer.

According to citizen M., it was established that he was detained on 24 April 2023 by officials of the Central Interregional Directorate of the SMS of Ukraine in Kyiv and Kyiv Oblast, but he was not informed of the right and opportunity to obtain free secondary legal aid, because, not being proficient in Ukrainian, he did not understand the content of the protocol on administrative offences, and signed the protocol in the places indicated by the SMS officials. The services of a lawyer were provided after his placement in Volyn TDFF.

<sup>39</sup> Decision of Kivertsi Raion Court of Volyn Oblast of 9 September 2022 (Case No. 158/1916/22): <https://revestr.court.gov.ua/Review/106157908>.

A similar incident was identified during the detention of citizen T. by officials of the Department of the SMS of Ukraine in Khmelnytskyi Oblast on 8 June 2023. He was also not informed of the right and opportunity to obtain free secondary legal aid, because, not being proficient in Ukrainian, he did not understand the content of the protocol on administrative detention.

The CPT (19th General Report CPT/Inf(2009)27) considers that irregular migrants should, in the same way as other categories of detained persons, have access to a lawyer from the very beginning of their detention.

The risk of intimidation and physical violence is greatest immediately after persons are detained, and the ability of detainees to engage a lawyer during this period is a guarantee against ill-treatment.

In addition, there was no quarterly reconciliation of information with the Regional Centre for Free Secondary Legal Aid of the Main Department of the SMS of Ukraine in Lviv Oblast, the Department of the SMS of Ukraine in Khmelnytskyi Oblast, and the Department of the SMS of Ukraine in Ternopil Oblast.

No regulatory act of the SMS/MIA of Ukraine provides for keeping records/registers that would record the notification time of the body authorised by law to provide free secondary legal aid, the data of the official who received it, and the time of lawyers' arrival, which, in turn, would be an additional guarantee of observing the rights of foreign nationals to access to a lawyer.

In addition, in the territorial units of the SMS of Ukraine, there are no separate premises for meetings between a foreign national and a lawyer providing legal aid or an official diplomatic representative which constitutes a violation of clause 9 of Section I of the Instruction on the Forced Return and Expulsion of Foreign Nationals and Stateless Persons from Ukraine approved by Order of the MIA of Ukraine, Administration of the State Border Guard Service of Ukraine, and the Security Service of Ukraine No. 353/271/150<sup>40</sup> of 23 April 2012.

### Recommendations

#### To the MIA of Ukraine and the National Police of Ukraine:

- Inspect all TDFs, establish the level of natural and artificial lighting, assess the sanitary condition of the cells, record the space standards per person based on the availability of sleeping accommodation, and, if necessary, plan repair works in the relevant buildings
- Introduce the Custody Records information subsystem in all territorial units of the National Police of Ukraine
- Equip or restore the functioning of the RDs of territorial police units (bodies), which detention conditions will meet the requirements of the Law of Ukraine "On Remand", the Instruction on the Organisation of the Duty Service of the National Police Bodies (Units) approved by Order of the MIA of Ukraine No. 440 of 23 May 2017, the Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules, and the recommendations of the CPT "Detention by Law Enforcement Officials" CPT/Inf92)3-part1
- During daily briefings, to draw the police officers' attention to the inadmissibility of violating the terms of citizens' detention in the RDs and prevention of conducting procedural actions with detainees in offices without video recording. Take relevant response measures if such incidents are identified
- Ensure continuous training and advanced training of officials responsible for the custody of detainees in police units (bodies) and a system of monitoring their activities by independent specialists (experts) to increase the efficiency of such persons

<sup>40</sup> Order of the Ministry of Internal Affairs of Ukraine, Administration of the State Border Guard Service of Ukraine, and the Security Service of Ukraine No. 353/271/150 of 23 April 2012 "On Approval of the Instruction on the Forced Return and Expulsion of Foreign Nationals and Stateless Persons from Ukraine": <https://zakon.rada.gov.ua/laws/show/z0806-12#Text>.



- Stop the practice of independent consideration of reports of citizens being beaten by officers of police units (bodies) and ensure that each case is reported to the relevant territorial department of the State Bureau of Investigation and such information is registered in the URPTI
- Conduct internal investigations into all established violations of the deadlines for informing the FLA centres by officials of the National Police of Ukraine and develop preventive measures to prevent further violations
- Ensure compliance with the requirements of the Procedure for Training and Advanced Training of Persons Obligated to Provide First Aid approved by the CMU Resolution No. 1115 of 21 November 2012, by having officers of the National Police of Ukraine undergo first aid training and obtaining relevant certificate
- Conduct proper internal investigations into human rights violations by officers of police units (bodies), with the possibility of including members of the public as independent experts in the police department's disciplinary commission
- Archive video surveillance in all police units (bodies) for at least 30 days. If necessary, provide the relevant units with additional memory drives
- Include the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the training modules for police officers of all staff categories

**To the MIA of Ukraine and the SMS:**

- Develop and approve an order on the creation of conditions (special places) for the temporary detention of foreigners and stateless persons detained for illegal stay in Ukraine until the issue of their forced expulsion or placement in a temporary detention facility for foreigners and stateless persons is resolved
- Develop and approve an order on the procedure for organising the activities of employees of the SMS bodies (units) on the procedure for placing and keeping detainees in the detention room and supervising their behaviour, as well as the procedure for providing three meals a day and drinking water to persons held in the RD for more than three hours
- Ensure systematic awareness-raising activities at least once a quarter among the employees of the SMS of Ukraine to prevent cruel, inhuman or degrading treatment or punishment in their practice
- Conduct internal investigations into all established violations of the deadlines for informing the FLA centres by SMS officials and develop preventive measures to prevent further violations
- Amend the certificate of transfer of foreigners to the TDFFs, as provided for in Annex 1 to the Instruction on the Procedure for Detention of Foreigners and Stateless Persons in Temporary Detention Facilities for Foreigners and Stateless Persons Illegally Staying in Ukraine approved by Order of the MIA of Ukraine No. 141 of 29 February 2016, in terms of indicating exact time (hours and minutes) of the foreigner's transfer





# **SECTION 5**

**VIOLATION OF FUNDAMENTAL  
RIGHTS OF MAN AND CITIZEN IN  
PLACES OF CUSTODY  
SUBORDINATED TO THE MINISTRY  
OF DEFENCE OF UKRAINE**

## 5.1. General Overview of Places of Custody Subordinated to the Ministry of Defence of Ukraine

In 2023, as part of its service, the NPM visited 4 facilities of the system of the MoD of Ukraine:

- 2 rooms for temporarily detained servicepersons
- 1 guardhouse
- 1 disciplinary battalion

In 2023, 70 detention facilities were subordinated to the MoD of Ukraine. Over the past year, 2 detainees died in bodies of the MoD of Ukraine. 3 complaints were received about improper detention in MoD units.

During a visit to the 307th Disciplinary Battalion of the Military Law Enforcement Service of the Armed Forces of Ukraine, it was found that cosmetic repairs were carried out in the living premises where shift personnel live, a place for making phone calls was equipped with a landline, library of the disciplinary battalion was provided with a sufficient amount of fiction, the medical unit was in proper sanitary and hygienic condition, medical staff was provided with sufficient detergents and disinfectants, and an isolation ward for infectious patients was properly equipped.



## 5.2. Major Problems with the Observance of Rights and Freedoms of Detained Servicepersons

In 2023, as part of its service, the NPM visited the facilities of the system of the MoD of Ukraine, including rooms for temporarily detained servicepersons, guardhouses and a disciplinary battalion.

The most common violations identified during visits to MoD detention facilities include the existence of non-statutory relations between servicepersons, non-compliance with space standards in dormitories for servicepersons, and violations of the rights to privacy and contact with the outside world.

For example, in accordance with Article 4 of the Law of Ukraine “On the Disciplinary Regulations of the Armed Forces of Ukraine”<sup>41</sup>, military discipline requires every serviceperson to show respect for each other, be polite and behave with dignity and honour.

<sup>41</sup> Law of Ukraine “On the Disciplinary Regulations of the Armed Forces of Ukraine”: <https://zakon.rada.gov.ua/laws/show/551-14#Tex>.

However, during a visit to the disciplinary battalion on 21 September 2023, the NPM group received numerous complaints from servicepersons about non-statutory relations between convicted servicepersons.

During confidential interviews, it was established that after the arrival of a newly arrived serviceman of the shift personnel to the disciplinary battalion, the convicts who have been in the disciplinary unit for a long time are forced to do 307 squats.

In addition, servicepersons convicted long ago morally abuse and create more difficult living conditions for the newly arrived shift personnel, despite the age, life, and combat experience of the latter.

It should be noted that in the case of *Chember v. Russia* (Application No. 7188/03 of 3 July 2008), the ECtHR ruled on a violation of Article 3 of the Convention in connection with the inhuman treatment of the applicant in a military unit. In this case, the applicant, who had pain in his knees, was ordered to do 350 knee bends, which was a particularly difficult exercise.

To eliminate the identified violations, the Commissioner sent the information to the MoD of Ukraine and the disciplinary battalion for appropriate response measures.

#### **Recommendations to the MoD of Ukraine:**

- In all detention facilities of the MoD system, arrange stands with visual information on compliance with the requirements of Article 4 of the Law of Ukraine “On the Disciplinary Regulations of the Armed Forces of Ukraine” in terms of respectful and polite attitude between servicepersons and explanations that in case of violation of the rights of man and citizen, they can apply to the Ukrainian Parliament Commissioner for Human Rights
- Develop a complex programme to improve the living conditions of convicted servicepersons aimed at complying with the established space standards
- To ensure systematic awareness-raising activities at least once a quarter among permanent personnel of DICEs to prevent cruel, inhuman or degrading treatment or punishment
- Conduct explanatory work with convicted servicepersons on their basic rights and obligations and place relevant information on notice stands in public places





# **SECTION 6**

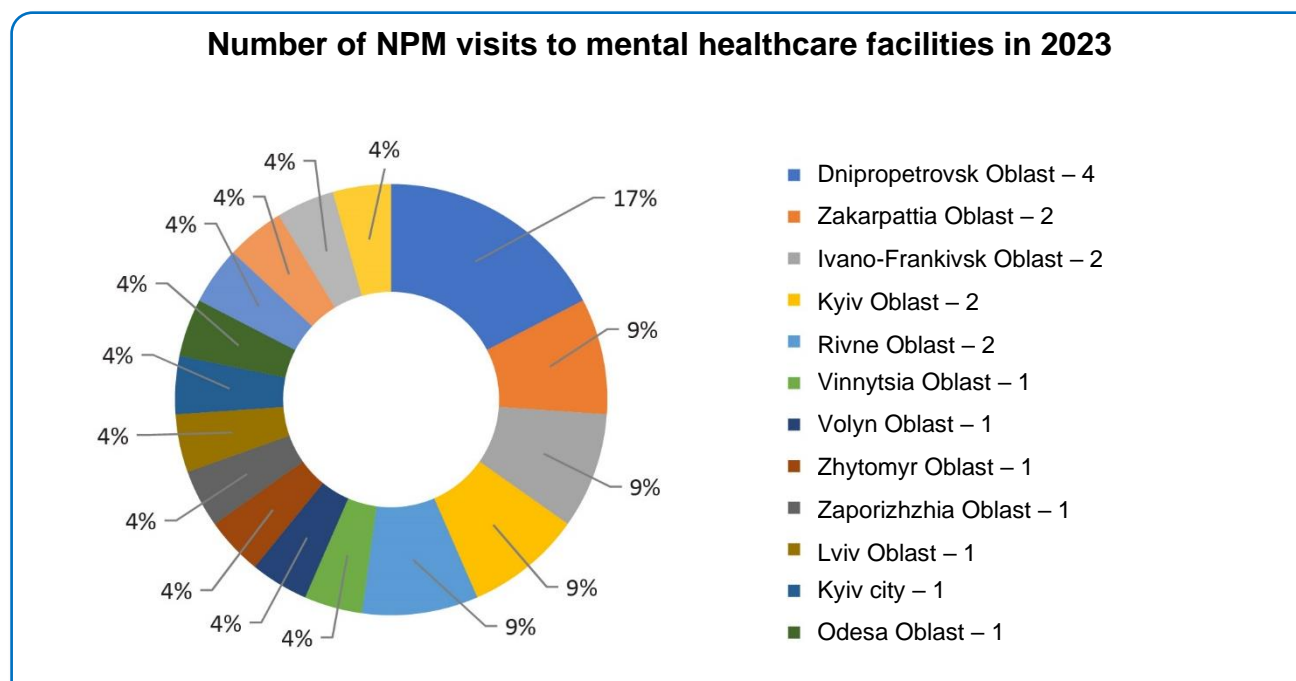
**VIOLATION OF FUNDAMENTAL  
RIGHTS OF MAN AND CITIZEN IN  
PLACES OF CUSTODY UNDER THE  
JURISDICTION OF THE MOH OF  
UKRAINE**

## 6.1. General Overview of Places of Custody under the Jurisdiction of the MoH of Ukraine

The increase in stressful situations due to the COVID-19 pandemic and Russian aggression in Ukraine inevitably leads to a deterioration of the mental health of the population. The organisation of psychiatric care in mental health facilities is one of the important aspects in this context. Monitoring the observance of human rights in this area, in particular, identifying problems that arise in the process of psychiatric care and that may lead to ill-treatment of patients, was an important NPM area of activity in 2023. In this context, it is particularly important to improve the organisation of psychiatric care, as well as the effective implementation of measures aimed at improving the conditions of stay and treatment of patients.

According to the psychiatric care principles, which are set out in Article 4 of the Law of Ukraine “On Psychiatric Aid,” psychiatric care is provided based on legality, humanity, respect for rights of man and citizen, voluntariness, accessibility, and according to the current level of scientific knowledge, necessity, and sufficiency of treatment, medical, psychological and social rehabilitation, and the provision of educational and social services.

In 2023, the NPM groups visited 23 mental health facilities and identified numerous violations of the rights of persons forced to stay in such facilities.



## 6.2. State of Observance of Human Rights and Freedoms in Places of Custody under the Jurisdiction of the MoH of Ukraine

### Right to Protection from Torture, Cruel or Degrading Treatment or Punishment

Mental health institutions fail to properly record bodily injuries inflicted on patients during arrival and stay at healthcare facilities, which leads to inadequate control over the reporting to law enforcement agencies. However, no regulatory act regulates the keeping of records of injuries to patients in mental health facilities who have been injured directly during their inpatient treatment. The lack of documentation of injuries to patients makes it impossible to effectively investigate such cases.

Ukraine is currently taking measures to implement the recommendations of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in terms of documentation of torture and ill-treatment, in particular during the stay of patients in healthcare facilities. It is planned to develop a form of medical documentation that would allow medical professionals to record the necessary information about such treatment on time and pass it on to the relevant law enforcement agencies.

*During a visit to the Municipal Non-Profit Enterprise “Oblast Mental Health Facility in Berehove” of Zakarpattia OC, the violation of the Procedure for Recording the Facts of Applying to and Being Taken to Healthcare Facilities in Connection with Criminal Injuries and Informing Police Bodies and Units about Such Cases approved by Joint Order of the MIA of Ukraine and the MoH of Ukraine No. 612/679<sup>42</sup> of 6 July 2016 was found. The admission department does not keep a Register recording the facts of applying to and being taken to healthcare facilities in connection with criminal injuries and informing police bodies and units about such cases. During a visit, a patient who committed a socially dangerous act and was compulsorily taken to a healthcare facility was found. There are signs of bodily injuries on the patient’s body, but there are no records in the register about it and notification of the police in accordance with the Procedure.*



*In the admission department of Municipal Non-Profit Enterprise “Clinical Hospital ‘Psychiatry’” of the Executive Body of Kyiv City Council (Kyiv City State Administration), the NPM group found that medical professionals fail to record bodily injuries and inform the police bodies and units and the State Bureau of Investigation about such cases.*

In its recommendation “Means of Restraint in Psychiatric Establishments for Adults” [CPT/ Inf(2017)6], the CPT notes that in many psychiatric hospitals, restraints may sometimes be necessary to limit the freedom of movement of agitated and/or violent patients. At the same time, staff in mental health facilities should be trained to deal with patients who require physical restraint. Each such case should be registered in detail in a special record.

<sup>42</sup> Order of the Ministry of Internal Affairs of Ukraine and the Ministry of Health of Ukraine No. 612/679 of 6 July 2016 “On the Procedure for Recording the Facts of Applying to and Being Taken to Healthcare Facilities in Connection with Criminal Injuries and Informing Police Bodies and Units about Such Cases”: <https://zakon.rada.gov.ua/laws/show/z1051-16#Text>.

These measures will help to reduce risks for patients and staff and ensure an objective and documented resolution of situations involving the use of physical restraint.

Principle 11 of Resolution 46/119<sup>43</sup> states that a patient who is restrained or secluded shall be kept under humane conditions and be under the care and close and regular supervision of qualified members of the staff.

In Ukraine, the procedure for physical restraint or seclusion during the provision of psychiatric care to persons with mental disorders is regulated by Order of the MoH of Ukraine No. 240 of 24 March 2016.

At the same time, NPM groups often identify violations of patient’s rights during physical restraint or seclusion.

*In Municipal Non-Profit Enterprise “Ivano-Frankivsk Special Mental Health Facility of Ivano-Frankivsk OC”, physical restraint is applied in a room that does not ensure the patient’s privacy during the restraint procedure. The room used for restraint and seclusion is adjacent to the common dining room. At the same time, the area of the room where seclusion is used is less than 7 m<sup>2</sup> that creates an improper therapeutic environment and constitutes a violation of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders approved by Order of the MoH of Ukraine No. 240<sup>44</sup> of 24 March 2016.*

The CPT’s recommendations emphasise the need to continue efforts to further reduce the number of beds with nets that are still used in mental health facilities, but the NPM group often detect the use of such beds.

There are cases of usage of certified restraint belts by medical professionals that do not ensure proper security during the action and can lead to ill-treatment of the patient.

*During the visit to Municipal Enterprise “Dnipropetrovsk Multidisciplinary Clinical Hospital for Psychiatric Care of Dnipropetrovsk OC” and Municipal Non-Profit Enterprise of Bila Tserkva City Council “Bila Tserkva City Hospital No. 4”, the NPM group found that physical restraint was carried out on an iron bed with spring mattress base in the presence of other patients, which constitutes a violation of the requirements of item 2 of clause 11 of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders and the forms of primary registration documentation approved by Order of the MoH of Ukraine No. 240 of 24 March 2016.*

*There is a set of certified restraint belts in the admission department of the Municipal Non-Profit Enterprise “Lviv Oblast Clinical Psychiatric Hospital” of Lviv Oblast. Such restraint belts are available in some departments, mostly for patients in acute conditions.*



<sup>43</sup> United Nations General Assembly Resolution 46/119 “Protection of Persons with Mental Illness and the Improvement of Mental Healthcare” (February 1992) [https://www.zakon.cc/law/document/read/995\\_905](https://www.zakon.cc/law/document/read/995_905)

<sup>44</sup> Order of the Ministry of Health of Ukraine No. 240 of 24 March 2016 “On Approval of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders”: <https://zakon.rada.gov.ua/laws/show/z0570-16>



*Personnel of other departments use “soft” restraint with bedsheets, if necessary, that violates the requirements of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders and the forms of primary registration documentation approved by Order of the MoH of Ukraine No. 240 of 15 March 2016.*

According to Article 25 of the Law of Ukraine “On Psychiatric Aid,” patients have the right to respectful and humane treatment, which excludes humiliation of human honour and dignity.

The CPT notes that non-preferential treatment of patients – both psychiatric and somatic – and care for them should be ensured.

Despite the preliminary observations, many facilities still apply a practice where personnel do not meet the requirements for the proper treatment of patients.

*During a visit to Department No. 6 of Municipal Enterprise “Dnipropetrovsk Multidisciplinary Clinical Hospital for Psychiatric Care of Dnipropetrovsk OC” to apply supervised CMMs, the NPM group found a list with the names of patients (“ward heads”) on the notice stand. During interviews with patients and medical staff, it was established that in each ward, there is a patient appointed as a “ward head” who is responsible for maintaining discipline and order in the wards. This indicates the practice of segregation and discrimination among patients, leading to a violation of the patient’s right to respectful and humane treatment and excluding humiliation of human honour and dignity.*

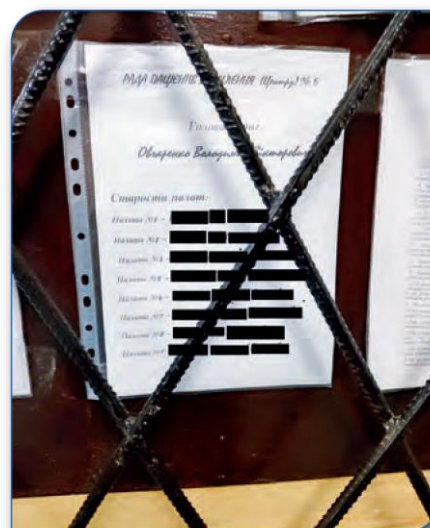
*In addition, in the supervisory ward of Department No. 6, there was the “schedule of visits to the supervisory ward toilet”, which indicates that patients’ free access to sanitary facilities is restricted.*

Lack of attention to the rights and dignity of patients in mental health facilities is an unacceptable and potentially dangerous phenomenon that requires immediate response. During the year, the NPM groups identified cases of insufficiently justified restrictions imposed on patients by hospital personnel, which violated their rights, including the right to movement and contact with the outside world.

Article 25 of the Law of Ukraine “On Psychiatric Aid” states that a decision to restrict the rights of persons receiving psychiatric care is recorded in medical records, indicating the period of its validity, and may be appealed to a court. However, such restrictions are hardly ever recorded in patients’ medical records.

According to Article 25 of the Law of Ukraine “On Psychiatric Aid”, persons receiving psychiatric care have the right to receive psychiatric care in the least restrictive conditions, in accordance with their mental state.

Article 6 of Recommendation B (83) 2 of the Committee of Ministers to Member States concerning the legal protection of persons suffering from mental disorder placed as involuntary patients states that the restriction on personal freedom of the patient should be limited only to those which are necessary because of their state of health and for the success of the treatment.





*During a visit to the Municipal Non-Profit Enterprise "Oblast Mental Health Facility in Berehove" of Zakarpattia OC, it was found that many patients are kept in supervisory wards that are locked from the outside, which prevents patients from moving freely around the department. In ward No. 4 with 9 beds, there is no handle on the door from the inside, which makes it impossible for patients to open it. The ward is also used to restrain patients in case of exacerbation of their mental health condition.*

*Patients are deprived of the opportunity to go for walks and are kept in locked wards for the entire period of inpatient treatment, even though the daily routine approved by the head provides for walks twice a day.*

*In Municipal Enterprise "Oblast Mental Health Facility of Poltava OC," the NPM group visited the children's department No. 9, which found that the free movement of children in the facility is restricted, as all premises, including wards and sanitary facilities, are locked by the staff.*

During the year, the NPM groups recorded cases when patients were assigned the duties of junior medical staff without concluding labour contracts and proper remuneration.

According to Article 25 of the Law of Ukraine "On Psychiatric Aid," persons receiving psychiatric care are entitled to receive remuneration for the work actually performed along with other citizens. Principle 13 of Resolution 46/119 states that the labour of a patient in a mental health facility shall not be exploited. Every such patient shall have the right to receive the same remuneration for any work which they do as would, according to domestic law or custom, be paid for such work to a non-patient. Every such patient shall, in any event, have the right to receive a fair share of any remuneration which is paid to the mental health facility for his or her work.

The CPT has serious objections about the approach of using patients themselves as support staff in psychiatric facilities and suggests that this should only be used in extreme cases. If there is no other option but to employ such persons, they should be under the constant supervision of qualified medical staff.

*During the visit to Municipal Enterprise "Oblast Mental Health Facility of Poltava OC," it was found that the daily routine of department No. 3-A contains items such as "Shift change", which may indicate the involvement of patients in the performance of duties assigned to the facility staff. During confidential interviews with patients, the NPM group learned that the facility practices involved patients in cleaning sanitary facilities and toilets, etc. The facility staff remunerates patients for such work with cigarettes and food.*

*During confidential interviews with the NPM group while visiting the Dnipro branch of "Special Mental Health Facility" of the SI "Institute of Forensic Psychiatry of the MoH of Ukraine", patients reported that these are patients, not junior medical staff, who clean the wards, common corridors and sanitary facilities. Employees of the branch motivate patients with rewards in the form of cigarettes and the opportunity of additional calls, which constitutes a violation of patient's rights.*



The CMMs are applied by court order in accordance with [Article 92](#) of the CrCU<sup>45</sup> and [Article 19](#) of the Law of Ukraine “On Psychiatric Aid.” Such patients are held in specialised mental health facilities, during visits to which the NPM faces violations of their rights to healthcare and medical aid, proper conditions of detention, legal aid, etc.

*In the Dnipro branch of “Special Mental Health Facility” of the SI “Institute of Forensic Psychiatry of the MoH of Ukraine”, the hospital departments are divided according to the applicable type of supervision (regular, enhanced and strict). However, during the visit, it was found that the types of supervision in the hospital do not actually differ from each other. Restrictions on the movement of patients subject to strict supervision are applied to patients in wards with regular and enhanced supervision, which leads to excessive and unjustified restrictions on the rights of the latter.*

The issue of observance of the rights of patients subjected to CMM application remains unresolved. In particular, there are cases when, after submitting petitions to the court to extend or terminate a CMM application, they are often not considered for a long time due to the overload of the judicial system. According to Article 18 of the Law of Ukraine “On Psychiatric Aid,” the discharge of a person who has committed socially dangerous acts and with respect to whom the court has applied CMM is carried out by a court decision. As a result, patients continue to be detained in psychiatric facilities without a court decision, which may lead to a violation of their right to freedom and personal inviolability. According to the ECHR judgment – Case of Tsyoghe fon Manteyfel v. Ukraine (Application No. 29804/16), the inability to challenge the legality of a patient’s detention in a mental health facility constitutes a violation of Article 5 of the Convention.

*During a visit to the Dnipro branch of “Special Mental Health Facility” of the SI “Institute of Forensic Psychiatry of the MoH of Ukraine”, the NPM group found that some patients stay in the hospital for a long time without a court decision to prescribe, review or terminate CMM. According to the staff of the branch, the courts postpone consideration of cases on the prescription, review, or termination of CMM (up to several months).*

As of today, the issue of applying a preventive measure in the form of placing a person in a psychiatric facility under the regime which excludes their dangerous behaviour, in accordance with Article 508 of the CrPCU, has not been resolved due to the lack of a developed and approved procedure for applying a preventive measure in the form of placing a person in a psychiatric facility under the regime which excludes their dangerous behaviour. This procedure should also regulate the separation of persons subject to pre-trial or judicial investigation of a criminal offence and patients hospitalised in a mental health facility with regular supervision in accordance with Article 13 of the Law of Ukraine “On Psychiatric Aid” with their informed written consent.

Активність	Час
Піанно	6.15 - 6.30
Ранкова зарядка	6.30 - 6.45
Ранковий туалет	6.45 - 7.15
Прибирання приміщень	7.15 - 7.45
Лікарський прийом	7.45 - 8.10
Лікарський прийом	8.10 - 8.30
Сніданок	8.30 - 9.00
Приним медикментів	9.00 - 9.15
Виконання побутових-домогосподарських приписень	9.15 - 9.45
Загальний обхід пацієнтів	9.45 - 10.15
Групова корекційно-психологічна робота	10.15 - 11.45
Притулювання пацієнтів до прогулянки	11.45 - 12.00
Прогулянка пацієнтів	12.00 - 14.00
Обід	14.00 - 14.30
Приним медикментів	14.30 - 15.00
Тяга голівки, побутовий сон	15.00 - 17.00
Вечеря	17.00 - 17.30
Спортивна та культурно-розважальна занятість	17.30 - 18.45
Лікарський прийом	18.45 - 19.10
Перегляд телепередач	19.10 - 21.00
Приним медикментів	21.00 - 21.15
Вечірній туалет	21.15 - 21.45
Вихід до сну	21.45 - 22.00
Розмова по телефону пожежники	12.00 - 13.00

В діючий час:  
Притулювання з перервою на обід 10.00 - 17.00



<sup>45</sup> Criminal Code of Ukraine: <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

When the NPM group visited mental health facilities with regular supervision, cases were recorded when persons whose behaviour may have socially dangerous consequences were treated together with other patients without the necessary security conditions, in particular, most mental health facilities with regular supervision have no specially equipped wards for providing medical care to this group of persons.

*Following the visit to the Municipal Non-Profit Enterprise “Academician O. I. Yushchenko Vinnytsia Oblast Clinical Psycho-Neurological Hospital of Vinnytsia OC,” it was revealed that the hospital holds 7 people who have been placed in a psychiatric facility by a court decision as a preventive measure. However, such patients are held together with patients who, in accordance with Article 94 of the CrCU, have already been subjected to CMM.*

*Following the visit to Municipal Enterprise “Oblast Mental Health Facility of Poltava OC” to perform NPM functions, persons subject to a preventive measure are under the supervision of department staff to ensure the provision of CMM in the form of hospitalisation with enhanced supervision. However, it is not known what type of CMM will be applied to them in the future. In practice, persons subject to a preventive measure by a court decision under Article 508 of the CrPCU are subject to restrictions of the enhanced supervision regime.*

The Commissioner sent a submission to the CMU and the MoH of Ukraine on the need to develop and approve the Procedure for Applying a Preventive Measure in the Form of Placing a Person in a Psychiatric Facility under the Regime Which Excludes Their Dangerous Behaviour, in accordance with Article 19 of the Law of Ukraine “On Psychiatric Aid” to ensure the observance of the rights of such persons.

### **Violation of the Right to Healthcare and Medical Aid**

During NPM visits to mental health facilities, a number of violations were identified in the provision of medical care to patients, which led to a deterioration in the quality of medical care. In many mental health facilities, doctors do not review patients’ diagnoses and do not adjust the prescribed treatment for a long time. Some facilities do not have approved treatment protocols and rehabilitation plans for patients, pharmacies are not provided with all the necessary medicines and medical devices for treatment under clinical guidelines and unified clinical protocols, etc.

In many cases, the mental healthcare system lacks key components of effective treatment and psychosocial rehabilitation. This concerns the lack of clear and standardised approaches and necessary resources to provide a full range of services.

The NPM notes that the proposed treatment methods often focus on the use of medicines and ignore proper rehabilitation measures. Such an imbalance can significantly limit the ability of patients to receive full and comprehensive treatment for their diseases. The CPT notes that “psychiatric treatment should be based on an individual approach, which involves the development of a separate treatment plan for each patient. Such a plan should include a wide range of rehabilitation and therapeutic measures, including access to occupational therapy, group therapy, individual psychotherapy, art, theatre, music, and sports.”

*In Municipal Enterprise “Dnipropetrovsk Multidisciplinary Clinical Hospital for Psychiatric Care of Dnipropetrovsk OC,” many patients are prescribed psychopharmacological drugs for a long time without adjusting their treatment to take into account changes in their condition, which can pose a threat to the patient’s health (cause of drug resistance, neuroleptic malignant syndrome, etc.). The facility does not provide rehabilitation and destigmatisation measures aimed at further resocialisation of people in the hospital. In particular, there are no rehabilitation protocols, which indicates a lack of comprehensive patient-centred psychiatric care and contradicts Article 4 of the Law of Ukraine “On Psychiatric Aid.”*

*The Municipal Non-Profit Enterprise of Bila Tserkva City Council “Bila Tserkva City Hospital No. 4” fails to meet the requirements of Articles 4 and 5 of the Law of Ukraine “On Psychiatric Aid” and the Law of Ukraine “On Rehabilitation in Healthcare”<sup>46</sup>. During the study of medical documentation, it was not possible to establish the content, scope, and outcome of rehabilitation services provided to patients, despite the availability of relevant specialists among employees. The form of primary patient records No. 003/o does not contain information on the appointment and implementation of rehabilitation measures.*

<sup>46</sup> Law of Ukraine “On Rehabilitation in Healthcare”: [https://zakon.rada.aov.ua/laws/show/1053-20#\\_Text](https://zakon.rada.aov.ua/laws/show/1053-20#_Text).



Therefore, it is important to focus on improving the medical care system and ensuring the full integration of psychological and social rehabilitation of patients to ensure a comprehensive and effective approach to psychiatric care.

### **Violations of the Right to Adequate Conditions of Detention**

According to the CPT, inadequate conditions of detention can be recognised as inhuman or degrading treatment. Mental health facilities should create an environment that has a positive impact on the treatment of patients and their conditions.

It has been established that mental health facilities systematically violate standards for patient conditions. In particular, there is a lack of compliance with the requirements that stipulate a limited number of people in a ward (no more than 4) and the need to provide at least 7 m<sup>2</sup> of space for each patient. At the same time, there is often a shortage of the necessary hard equipment, a lack of hot water supply and proper lighting in the wards, which leads to an inadequate therapeutic environment. We emphasise that it is important to take immediate measures to ensure that psychiatric care is provided in accordance with established standards.

*During a visit to the Municipal Non-Profit Enterprise of Bila Tserkva City Council “Bila Tserkva City Hospital No. 4,” the NPM group found an inadequate therapeutic environment in the psychiatric department, in particular: the wards where patients are kept are overcrowded and have insufficient space: wards Nos. 8 and 9, which are designed for 7 patients, have an area of 20 m<sup>2</sup> and 19 m<sup>2</sup>. The wards are not equipped with sufficient furniture, which does not meet the requirements of the SBN for healthcare facilities.*

*At the same time, the wards are not provided with a water supply, the hard and soft equipment is old and needs to be updated, and the interior decoration does not meet the requirements specified in sections IV–VI and X of the State Sanitary Norms and Rules approved by Order of the MoH of Ukraine No. 354<sup>47</sup> of 21 February 2023.*

Lack of funding for mental health facilities can lead to the risk of prolonged and unjustified detention of patients to obtain additional funds. In addition, lack of funding makes it impossible to provide patients with proper nutrition and the necessary therapeutic conditions during their stay in inpatient settings. The lack of adequate medical staff and equipment in hospitals also has a negative impact on the quality of medical care and patient safety. This situation requires necessary response measures.



*The Dnipro branch of “Special Mental Health Facility” of the SI “Institute of Forensic Psychiatry of the MoH of Ukraine” allocates about UAH 20.37 per patient for one day of stay in the branch. This amount is critically low to ensure adequate and balanced nutrition. As a result, the hospital does not provide patients with full medical nutrition, which can lead to a deterioration in patients’ health and violates their right to healthcare and medical aid.*

*In Municipal Non-Profit Enterprise “Lviv Oblast Clinical Psychiatric Hospital” of Lviv OC, the change in the way the CMM is funded in 2023 makes the funding of the institution dependent on the length of time a patient stays in the facility.*

<sup>47</sup> Order of the Ministry of Health of Ukraine No. 354 of 21 February 2023 “On Approval of the State Sanitary Norms and Rules ‘Sanitary and Anti-Epidemic Requirements for Newly Built, Restored and Reconstructed Healthcare Facilities’ and Amendments to Certain Regulatory Acts of the Ministry of Health.”

*This can cause a conflict between the private interest of the facility to receive as much funding as possible and the interest of the state to protect the rights, freedoms and legal interests of persons suffering from mental disorders and held in places of custody by court order. The interest of the facility to receive funding may affect the objectivity and impartiality of medical decisions on the feasibility of further stay of patients in the facility and may lead to violations of patient's rights to timely discharge, unreasonable prolongation of treatment to increase the profits of the healthcare facility. According to the hospital's General Director, in 2023, thanks to the stay of CMM patients in the facility, the hospital recorded a budget surplus for the first time.*

### **Violation of the Right to Effective Remedy**

The NPM receives complaints about the systematic disregard by appointed lawyers of their obligations to participate in court hearings in patients' cases with CMM application. This practice deprives patients of the opportunity to exercise the right to legal protection and an effective remedy guaranteed by the Constitution and international conventions. This makes patients vulnerable and grossly violates their procedural rights.

*During the visit to the Municipal Non-Profit Enterprise "Academician O. I. Yushchenko Vinnytsia Oblast Clinical Psycho-Neurological Hospital of Vinnytsia OC," the NPM group received complaints about the failure of lawyers to provide free secondary legal aid to fulfil their obligations to participate in court hearings where cases of their clients, persons subject to CMM, are considered. This leads to a violation of the right of such patients to an effective remedy and violates the requirements of Article 26 of the Law of Ukraine "On Free Legal Aid." Ignoring court hearings by lawyers is a serious violation of procedural rights. This practice makes patients vulnerable and significantly limits their ability to pursue legal protection.*

The NPM notes that mental health facilities often accommodate patients with chronic mental disorders who do not require inpatient treatment but need outside care. They may include people who require assistance with education, vocational rehabilitation or other social support. These patients cannot be discharged because they have lost their social connections.

Keeping such people in psychiatric facilities without adequate funding for their further treatment endangers the quality of medical care and social protection of such people. Hospital administrations are taking steps to place patients in social protection institutions, but due to the lack of availability and registration procedure duration, these patients remain in hospital. To facilitate their adaptation and improve their quality of life, it is important to provide emotional support to these patients and encourage the restoration of social connections, which will greatly help the process of reintegration of these patients into society.

The observance of the rights of incapacitated persons during their stay in mental health institutions is an important problem. The NPM is aware of cases when such persons staying in the facility are unable to apply to the court to restore their legal capacity due to the lack of assistance from the facility management.

In the case of Nataliya Mikhaylenko v. Ukraine, the ECtHR notes that the lack of opportunities for an incapacitated person to apply for the restoration of their legal capacity constitutes a violation of her right of access to a court in accordance with clause 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

*During the visit to the Municipal Non-Profit Enterprise "Academician O. I. Yushchenko Vinnytsia Oblast Clinical Psycho-Neurological Hospital of Vinnytsia OC," it was established that patient P. was declared incapacitated by a court judgement of Leninskyi Raion Court of Vinnytsia. However, since then, no petition for an extension of the validity period of a judgment on declaring an individual incapacitated has been submitted to the court. The NPM group notes that there are many such cases, and they have a systemic nature in mental health facilities.*



### **Violation of the Right of Persons with Disabilities and Reduced Mobility**

Creating an accessible environment for all patients, including people with reduced mobility, is an important element of the right to healthcare and respect for the dignity of every person.

Inadequate accessibility of premises significantly hinders the free movement and stay of people with reduced mobility in healthcare facilities, which significantly limits the exercise of their rights.

To facilitate the movement of people with disabilities and the elderly, it is important to adapt healthcare facilities to meet their needs. This involves installing ramps, and lifts, adapting thresholds between rooms, equipping sanitary facilities, etc. It is also important to properly train medical staff to deal with such patients. Measures to adapt the premises and increase staff awareness will help to ensure that the rights of such people are respected during their stay in mental health facilities.

*During a visit to the Municipal Non-Profit Enterprise of Bila Tserkva City Council “Bila Tserkva City Hospital No. 4,” it was found that there were high stairs without a ramp at the entrance to the administrative building and the psychiatric department. The ward itself is not adapted to the needs of people with reduced mobility due to high thresholds and a lack of specially equipped sanitary areas. The above does not provide persons with disabilities with free access to hospital premises and services, which violates the SBN requirements.*



#### **Recommendations to the MoH of Ukraine:**

- Amend the Order of the MoH of Ukraine No. 110 of 14 February 2012 and approve the form of primary registration documentation “Certificate on Bodily Injuries” and the Instruction on Completing the Form of Primary Registration Documentation “Certificate on Bodily Injuries”
- Approve the procedure for organising the provision of psychiatric care if a court applies preventive measures to a person in respect of whom CMMs are to be applied or the issue of their application is being considered
- Develop and approve the procedure for the use of electroconvulsive therapy
- Develop and implement a strategy for staffing healthcare facilities in accordance with their needs

#### **Recommendations to Oblast and Kyiv City Military Administrations:**

- Take measures to ensure that mental health facilities meet the requirements of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders and the forms of primary registration documentation approved by Order of the MoH of Ukraine No. 240 of 24 March 2016 to improve the provision of medical care to persons with mental disorders
- Take measures to bring the premises used to provide medical care in the healthcare field in line with the requirements of the current legislation to ensure decent conditions for inpatient treatment of patients and a positive therapeutic environment

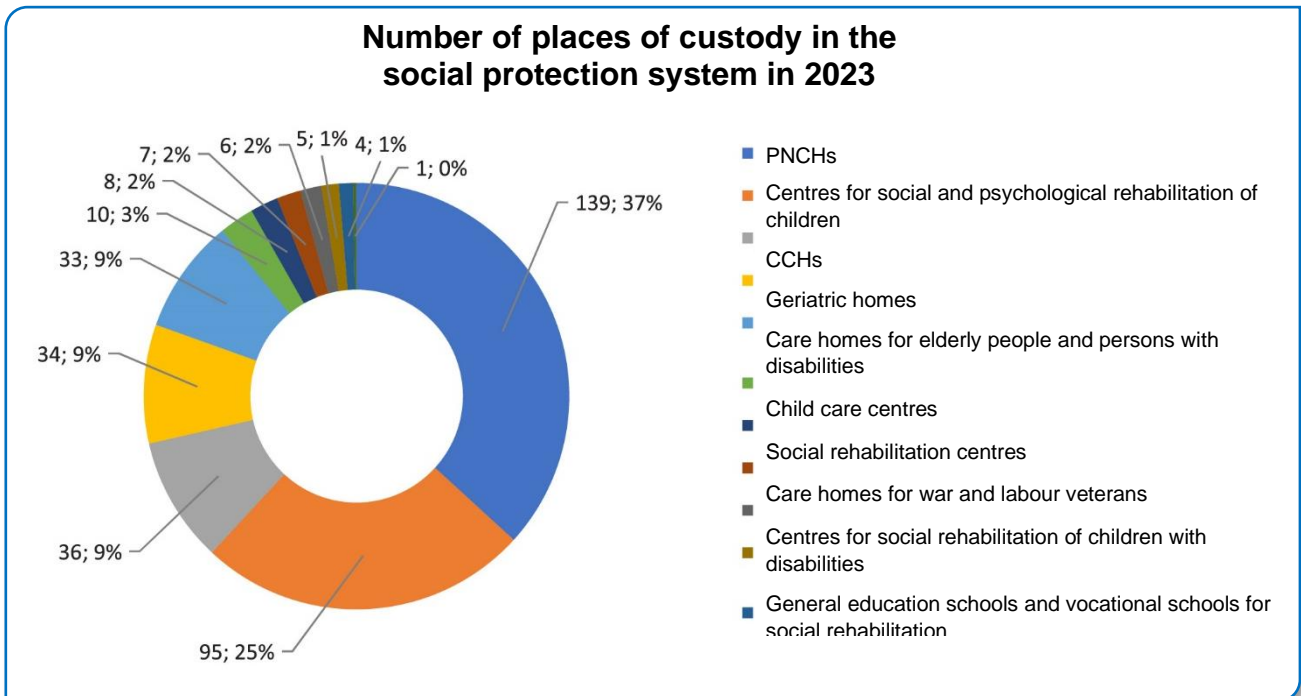
- Ensure that psychological and social rehabilitation is provided in mental health facilities in accordance with the requirements of the current legislation
- Ensure that healthcare facilities are equipped to meet the needs of persons with disabilities and reduced mobility

# **SECTION 7**

**VIOLATION OF FUNDAMENTAL  
RIGHTS OF MAN AND CITIZEN IN  
PLACES OF CUSTODY UNDER THE  
JURISDICTION OF THE MSP OF  
UKRAINE**

## 7.1. General Overview of Places of Custody in the Social Protection System

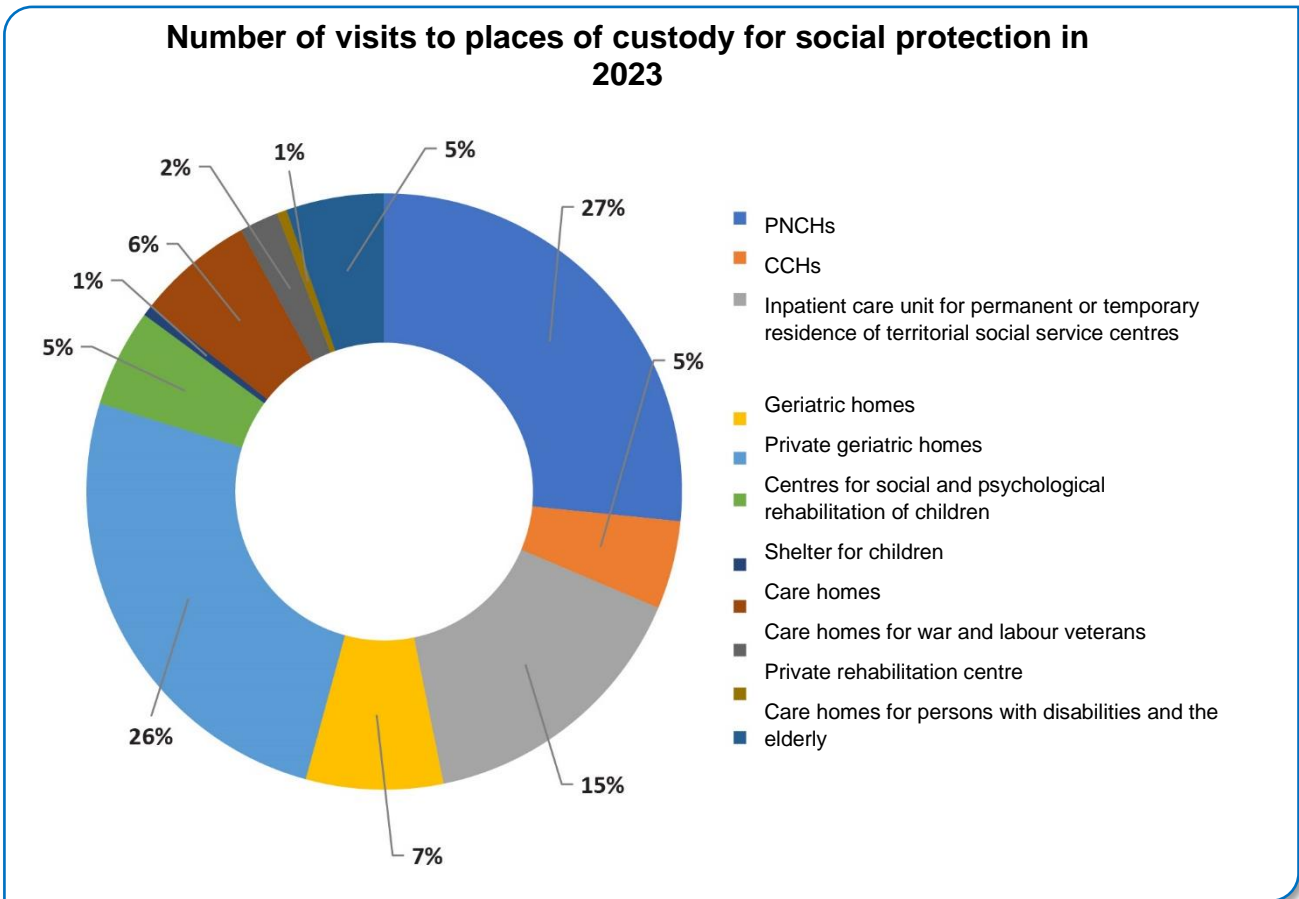
According to the MSP of Ukraine, as of 31 December 2023, the number of places of custody in the social protection system that provide social services, including inpatient care (residential institutions) was 452, in particular 139 PNCHs, 34 geriatric homes, 33 care homes for elderly people and persons with disabilities, 7 care homes for war and labour veterans, 8 social rehabilitation centres, 10 child care centres, 36 CCHs, 4 shelters for children, 1 orphanage, 6 centres for social rehabilitation of children with disabilities, 95 centres for social and psychological rehabilitation of children, and 5 general education schools and vocational schools for social rehabilitation.



According to the Register of Providers and Recipients of Social Services, the number of non-governmental providers of inpatient care social services was 267 as of 31 December 2023.

As part of the NPM implementation in 2023, 188 visits to facilities of the social protection system under the jurisdiction of the MSP of Ukraine were made, in particular:

- 50 PNCHs
- 9 CCHs
- 29 inpatient care units for permanent or temporary residence of territorial social service centres
- 14 geriatric homes
- 48 private geriatric homes
- 10 centres for social and psychological rehabilitation of children
- 1 shelter for children
- 12 care homes
- 4 care homes for war and labour veterans
- 1 private rehabilitation centre
- 10 care homes for persons with disabilities and the elderly



## 7.2. Problems of Activity of the Social Protection System Facilities

The group with the highest percentage of representatives in residential institutions, which are still virtually the only available format for organising accommodation and providing social services, are persons with intellectual and psychosocial disabilities. More than a hundred people live in many institutions, making it impossible to provide personalised social services and support. Residents are isolated from local communities, relevant social and medical services, and opportunities for reintegration into society. Most of them stay in residential institutions for the rest of their lives. In these institutions, human rights violations occur, including torture, ill-treatment, involuntary treatment, forced labour, deprivation of personal liberty and the right to private and family life.

The PNCH system in Ukraine is outdated and violates international human rights standards and contradicts the key ideas of the Convention on the Rights of Persons with Disabilities, which Ukraine has signed and ratified.

The current PNCH system should be replaced by an innovative, flexible and client-centred care system. The CPT experts reached this conclusion during their visit to the PNCHs in Ukraine<sup>48</sup>. This requires time, investment and primarily a change of attitude from politicians, government agencies, and staff of these institutions.

International organisations and experts have repeatedly emphasised the need to reform the system of residential institutions in Ukraine. These institutions are overcrowded and understaffed, which leads to violations of human rights and freedoms in the provision of social services.

<sup>48</sup> The CPT Report CPT/Inf (2020): <https://rm.coe.int/1680997b34>.



For example, the Report on the Assessment of the Policy and Legal Framework of Ukraine on the Right of the Elderly to Social Protection under Article 23 of the European Charter (Revised), developed within the framework of the Council of Europe Project “Promoting Social Human Rights as a Key Factor of Sustainable Democracy in Ukraine”<sup>49</sup>, also shows that the European Committee of Social Rights has consistently concluded that the situation in Ukraine is not in line with Article 23 of the Charter, in particular with regard to the following areas: awareness and prevention of ill-treatment of the elderly; quality and availability of social services for the elderly; participation of the elderly in decision-making, including in the context of incapacity; participation of the elderly in cultural and recreational activities and availability of information on such opportunities.

The problem of violations of the rights and freedoms of people with mental disorders and the urgent need for deinstitutionalisation were highlighted in the report “Transforming Psycho-Neurological Institutions in Ukraine”, prepared by the International Foundation for Human Rights in Mental Health – FGIP<sup>50</sup> in cooperation with the MSP of Ukraine and the Department of Social Policy of Kyiv City State Administration, and conclusions of the UN Human Rights Monitoring Mission in Ukraine, provided in the information note on the results of monitoring the human rights situation of persons with intellectual and psychosocial disabilities in Ukraine in 2022<sup>51</sup>.

To ensure the observance and exercise of the rights and freedoms of persons with disabilities following the requirements of the Convention on the Rights of Persons with Disabilities<sup>52</sup>, Presidential Decree No. 553/2016 of 13 December 2016 “On Measures Aimed at Ensuring the Observance of the Rights of Persons with Disabilities”<sup>53</sup> stipulates that PNCHs of the social protection system be reformed by 2022, taking into account international experience.

However, the process of building an effective system of social services as provided for by [the Law of Ukraine “On Social Services”](#)<sup>54</sup> is still in its infancy, largely due to a lack of funding.

During visits to social places of custody, the NPM group repeatedly detected violations of the rights of the wards to healthcare, medical aid and rehabilitation. A significant burden on medical staff due to understaffing is one of the reasons for such violations, resulting in a decrease in the quality of services provided to the wards. Medical and pharmaceutical professionals and rehabilitation specialists refuse to work in social protection institutions due to the incomparability of remuneration in such institutions with healthcare facilities. In addition, the majority of residential institutions are located in distant villages and hamlets that lack the necessary infrastructure. In such circumstances, it is difficult for medical and social workers to provide the necessary care to the residents of these institutions.

According to the current legislation, residential institutions do not meet the Requirements for a provider of healthcare services with whom the key spending units enter into an agreement on medical care services approved by CMU Resolution No. 391<sup>55</sup> of 28 March 2018, and therefore cannot enter into an agreement on medical care. In recent years, none of the residential institutions has entered into an agreement with the NHSU on medical care under the medical guarantee programme.

This approach in the legislation leads to a discrepancy in the remuneration of medical, pharmaceutical, and rehabilitation professionals working in residential institutions, resulting in a deterioration in the quality of rehabilitation and medical services.

Despite MSP attempts to settle the issue of increasing the monthly supplement for social workers for the increase in the volume of work performed for the actual time worked in the maximum amounts of up to 100 and 50 per cent of the official salary, this initiative was not supported by the Government of Ukraine.

<sup>49</sup> Report on the Assessment of the Policy and Legal Framework of Ukraine on the Right of Older Persons to Social Protection under Article 23 of the European Charter (Revised): <https://rm.coe.int/old-people-ua-soft/1680a2430d>.

<sup>50</sup> Report “Transforming Psycho-Neurological Institutions in Ukraine”: <https://www.aip-alobal.org/files/reportss-ukr.pdf>.

<sup>51</sup> Conclusions of the UN Human Rights Monitoring Mission: <http://surl.li/reym>.

<sup>52</sup> Convention on the Rights of Persons with Disabilities: <https://zakon.rada.gov.ua/laws/show/995g71#Text>.

<sup>53</sup> Decree of the President of Ukraine No. 553/2016 of 13 December 2016 “On Measures Aimed at Ensuring the Observance of the Rights of Persons with Disabilities”: <https://zakon.rada.gov.ua/laws/show/553/2016#Text>.

<sup>54</sup> Law of Ukraine “On Social Services”: <https://zakon.rada.gov.ua/laws/show/2671-19#Text>.

<sup>55</sup> Resolution of the Cabinet of Ministers of Ukraine No. 391 of 28 March 2018: <https://zakon.rada.gov.ua/laws/show/391-2018-%D0%BF#Text>.

In addition, MSP Order No. 893 of 6 June 2019 “On Approval of Methodological Recommendations for Determining the Number of Employees of Residential Institutions/Facilities of the Social Protection System” established the recommended number of junior medical staff (ward nurse) at the rate of 4.5 positions per 30 beds, and 1 position per 40 beds for nurses. The number of medical, and especially junior medical, staff in residential institutions needs to be reviewed, as they are unable to provide the necessary care for the residents.

The published CPT report (CPT/Inf (2020) provides the following recommendations:

1. Given the high understaffing of medical and psychosocial therapy staff, the Committee recommends that the situation be urgently addressed. As a first step, the regular and primarily daily presence of a psychiatrist should be ensured. In addition, urgent measures should be taken to obtain licences from the MoH of Ukraine for somatic and especially psychiatric treatment in all the residential institutions visited, and free somatic examinations and treatment, including dental and medical ones, should be provided in these and other similar institutions in Ukraine.

2. The Committee calls on the Ukrainian authorities to intensify their efforts to deinstitutionalise and develop social care facilities. Such facilities should consist of small group housing units, ideally in urban areas where all appropriate facilities are available, rather than larger units located in long-standing social care institutions that do not provide adequate social reintegration.

3. The Committee also reiterated its long-standing recommendation that the judiciary be allowed to regularly review the need for continued detention in psycho-neurological residential institutions. Patients should be able to request such a review and explain their situation in person before the Raion Medical and Social Examination Commission.

The above indicates that Ukraine has not fully fulfilled its international obligations.

There is an urgent need to develop a Strategy for Reforming Psycho-Neurological and Other Residential Institutions and Deinstitutionalising Care for Persons with Disabilities and the Elderly and to approve an operational plan for its implementation. The CMU instructed the MSP of Ukraine to develop relevant regulatory acts in 2024.

### 7.3. Main Violations of the Rights of Man and Citizen in Social Protection Institutions

The NPM visits revealed deficiencies in the activities of residential institutions and systemic violations that lead to violations of the rights and freedoms of residents.

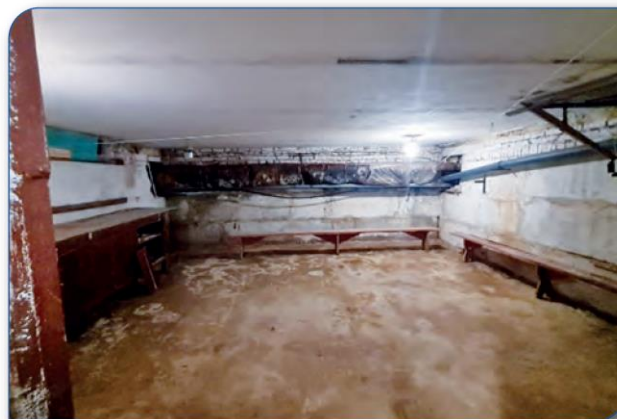
#### Right to Life and Security

During the visits to social protection institutions, systemic violations of clause 7 of Section XVII of the State Standard of Inpatient Care for Persons Who Have Lost the Ability to Care for Themselves or Have Not Acquired Such Ability approved by Order of the MSP of Ukraine No. 198<sup>56</sup> of 29 February 2016, item 2, subclause 2 of clause 5 of the Criteria for the Activities of Social Service Providers approved by CMU Resolution No. 185<sup>57</sup> of 3 March 2020, and the Requirements for the Use and Accounting of the Fund of Civil Defence Facilities approved by Order of the MIA of Ukraine No. 579<sup>58</sup> of 9 July 2018, *namely the lack of defence facilities (shelters) and any equipped basements that should ensure the safe stay of residents/wards and facility staff in case of an air-raid alarm or the existing defence facilities (shelters) need to be repaired and cannot be operated* (Malyzhyne PNCH, Maznyky Care Home for Elderly People and Persons with Disabilities, Romaniv PNCH, Deliatyn PNCH, Novosavytske PNCH, Mena Territorial Centre for Social Services of Mena City Council of Chernihiv Oblast, Novomyrhorod PNCH, Pidbuzh Geriatric Home, Lviv Geriatric Home, Turi-Remety PNCH, Department for Social Services in Conditions of Round-the-Clock Stay of Velyki Berezhitsi Village, Centre for Social Services of Kremenets City Council in Ternopil Oblast, Milivtsi PNCH, Smotrych Care Home for Elderly People and Persons with Disabilities, Rivne PNCH, and Horodnia PNCH) were found.

<sup>56</sup> MSP Order No. 198 of 29 February 2016: <https://zakon.rada.gov.ua/laws/show/z0432-16#Text>.

<sup>57</sup> CMU Resolution No. 185 of 3 March 2020: <https://zakon.rada.gov.ua/laws/show/185-2020-%D0%BF#n10>.

<sup>58</sup> Order of the Ministry of Internal Affairs of Ukraine No. 579 of 9 July 2018: <https://zakon.rada.gov.ua/laws/show/r0879~18#Text>.



*Following the Commissioner’s response, Skvyra PNCH entered into an agreement on the preparation of design and estimate documentation for the construction of a radiation shelter on the facility territory.*

Special attention should be paid to institutions close to the border with the aggressor country – the RF.

Article 11 of the Convention on the Rights of Persons with Disabilities stipulates that the State Party shall take, in accordance with its obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Failure to comply with Clause 10, Part 1 of Article 19, Clause 2, Part 9 of Article 33 of the Code of Civil Protection of Ukraine<sup>59</sup> and the provisions of the Procedure for the Temporary Relocation (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Various Types, Forms of Ownership and Subordination for Round-The-Clock Stay, and Their Return to the Place of Permanent Residence (Stay), and in Case of Travel Outside Ukraine – to Ukraine approved by CMU Resolution No. 546<sup>60</sup> of 1 June 2023 (hereinafter referred to as the “Procedure for Temporary Relocation”), may endanger ward life.

The NPM group found violations of the requirements of these regulatory acts, in particular, the management of facilities close to the border with the RF failed to take appropriate measures to timely prepare wards and staff for evacuation in case of a sudden need (Vasylkiv PNCH, Liubomyrivka PNCH, the Inpatient Care Unit for Temporary or Permanent Residence of Municipal Enterprise “Centre for Social Services” of Snovsk City Council of Chernihiv Oblast).

<sup>59</sup> Code of Civil Protection of Ukraine: <https://zakon.rada.gov.ua/laws/show/5403-17#Text>.

<sup>60</sup> CMU Resolution No. 546 of 1 June 2023 “On Approval of the Procedure for the Temporary Relocation (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Various Types, Forms of Ownership and Subordination for Round-The-Clock Stay, and Their Return to the Place of Permanent Residence (Stay), and in Case of Travel Outside Ukraine - to Ukraine”: <https://zakon.rada.gov.ua/laws/show/546-2023-%D0%BF#Text>.



Clause 4 of the Procedure for Temporary Relocation stipulates that temporary relocation (evacuation) of children and persons who reside in institutions located less than 2 kilometres from business entities of significant national and defence importance of the respective civil protection category (special importance I or II), and/or less than 100 kilometres from the administrative border between the TOT and another territory of Ukraine where no hostilities are taking place and the line of contact, or less than 50 kilometres from the state border of Ukraine with the RF and the Republic of Belarus, is mandatory during martial law.

During martial law, such institutions, subject to the availability of defence facilities, and double-purpose structures suitable for sheltering children and persons, may carry out activities related to the provision of educational, social, medical, rehabilitation and other services without enrolling children and persons for round-the-clock stay. If it is impossible to ensure temporary relocation (evacuation) of children and persons within oblast or Kyiv city at the place of permanent location of the facility, the NSSU, the MSP of Ukraine, the MES of Ukraine, the MoH of Ukraine, the MIA of Ukraine, the MoD of Ukraine, the MYS of Ukraine, the MCIP of Ukraine (depending on the subordination (management) of the facilities) shall determine the Oblast, Kyiv City Military Administration or a state-owned facility that will provide accommodation for such children and persons for the period of temporary relocation (evacuation).

*During the visit, the NPM established that the residents of Liubyske PNCH (Zaporizhzhia Oblast) are actually less than 60 km from the line of contact, which poses a constant threat to their lives. The Commissioner recommended that Zaporizhzhia OMA consider the possibility of temporary relocation (evacuation) of the residents of the institution, but people remain in danger.*

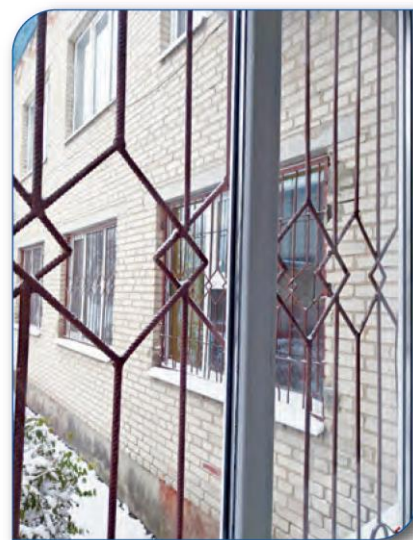
*Bohoduakhiv PNCH and Malyzhyne PNCH (Kharkiv Oblast) are located very close to the border with the RF but have not been evacuated. The head of the institution takes measures to ensure the evacuation of the residents: the Action Plan for the Temporary Relocation (Evacuation) of the Institution is approved and lists of residents for temporary relocation and accompanying persons were compiled, taking into account their mobility and health status.*

*Following the Commissioner's response, the wards of Illinka PNCH and the Inpatient Care Unit for Temporary or Permanent Residence of Pokrovsk Territorial Social Service Centre were temporarily relocated to a safe distance within Dnipro Oblast.*

Ignoring the air-raid alarm is a systemic problem. The evacuation of wards and staff to a shelter is not carried out. They continue to stay in living rooms or other facility premises due to the insufficient number of staff in residential institutions.

Unfortunately, the NPM groups still record cases of the installation of fixed bars on the windows (Novo-Bilytskyi PNCH). In violation of clause 2.16 of Section III of the Fire Safety Regulations in Ukraine approved by Order of the MIA of Ukraine No. 1417<sup>61</sup> of 30 December 2014, all windows of the shelter for children of the Service for Children of Volyn Oblast State Administration have fixed bars, which can pose a danger to the lives of children during a fire.

Following the Commissioner's response, the bars were dismantled in Krynychky PNCH.



<sup>61</sup> Order of the Ministry of Internal Affairs of Ukraine No. 1417 of 30 December 2014 "On Approval of the Fire Safety Regulations in Ukraine": <https://zakon.rada.gov.ua/laws/show/z0252-15#n14>.

### Right to Protection from Torture, Cruel, Inhuman or Degrading Treatment or Punishment

The facts of the applying isolation for the wards of residential institutions were established, which violates the requirements of the Law of Ukraine "On Psychiatric Aid," Clauses 49 and 50 of Section III of the CPT Standards, the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders approved by Order of the MoH of Ukraine No. 240<sup>62</sup> of 24 March 2016 (hereinafter referred to as "Rules No. 240"). Isolation is the confinement in a separate locked room of a person who, due to their mental state, poses an immediate danger to themselves or others. Although the CPT notes that this practice is no longer used in many countries, due to the lack of psychiatrists and trained staff in Ukraine, it still exists. If isolation is used, it shall meet the established standards and requirements: the person must be under constant supervision of medical staff and control of a psychiatrist; the fact, justification, and duration of isolation shall be recorded in the relevant medical records; the room in which isolation is applied must have an area of at least 7 m<sup>2</sup>, natural light, and unimpeded access to sanitary facilities. However, during the visits, it was found that isolation in residential institutions failed to meet the established requirements.



*When the NPM visited Baraboi PNCH, it found a ward of the institution in an isolated room with no access to drinking water and sanitary facilities. According to the facility staff, the need to take such actions against the ward was due to an attack of aggression that had occurred the day before. This restrictive measure was taken without any legal grounds, appropriate monitoring of the person's condition, and taking into account the time of isolation.*



<sup>62</sup> Order of the Ministry of Health of Ukraine No. 240 of 24 March 2016 "On Approval of the Rules for Physical Restraint and (or) Seclusion during the Provision of Psychiatric Care to Persons Suffering from Mental Disorders and the Forms of Primary Registration Documentation": <https://zakon.rada.gov.ua/laws/show/z0570-16#Text>.





*In building No. 2 of Bohodukhiv PNCH, the NPM team found a room that was locked from the outside and equipped with a chair and a bucket. The window of the room is boarded up and has only a small opening to the street. According to the interviewed wards, the residents of the institution are isolated in this room as a punishment for bad behaviour, as well as in the case of psychomotor agitation. During the inspection of the room, signs of a person staying (keeping) in the room were found: a bucket of excrement and unpleasant foreign smells.*

The problem of lack of training and advanced training of the staff of residential institutions to provide inpatient care for persons with special needs leads to inhuman and degrading treatment of the wards.

*During the visit to Krynychky PNCH, the NPM group witnessed the facility staff undressing the wards naked before bath procedures in front of other people. These actions by the facility staff can be regarded as degrading to the human dignity of the wards.*

*In Department No. 2 of the Myrohoshcha PNCH, the NPM group found that only one junior nurse helped 28 wards during lunch. Taking into account the fact that the residents of this department need constant outside care, the nurse was forced to lock some wards in the sanitary facility while feeding others. A similar violation was found in Zhmerynka PNCH.*

During repeated visits by the NPM, it was found that the Commissioner's recommendations to include in the functional duties of the staff provisions prohibiting torture and other cruel, inhuman or degrading treatment or punishment, as provided for in Article 10 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Bohodukhiv PNCH, Petrychanka PNCH, Krynychky PNCH, Oleksandriia PNCH, Antopil PNCH, Novosavytske PNCH, Popovychi PNCH, Milivtsi PNCH, Department for Social Services in Conditions of Round-the-Clock Stay of Velyki Berezhtsi Village, the Centre for Social Services of Kremenets City Council of Ternopil Oblast, and Horodnia PNCH).

### **Right to Freedom and Personal Inviolability**

The Commissioner has repeatedly emphasised that the right to freedom and personal inviolability is one of the defining and fundamental constitutional human rights and freedoms, and is reserved even in places of custody.

Despite the recommendations provided, and the explanatory work carried out during the NPM visits, violations of the right to freedom and personal inviolability in the social care institutions are still recorded.



In violation of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 14 of the Convention on the Rights of Persons with Disabilities, and Article 29 of the Constitution of Ukraine, many institutions continue to restrict the right of their wards to stay in their living premises (rooms) or visit other residential buildings/floors of the institution.

Clause 36 of the CPT Standards stipulates that patients who wish to do so may stay in their room during the day, rather than necessarily staying with other patients in places where everyone is together.

Many institutions still have the practice of prohibiting wards from staying in their own rooms during the day. Facility staff move them to the so-called “day room” – a room with benches, chairs, and a TV. Locked in this room, the wards spend all their free time there (Antopil PNCH, Leshkiv PNCH, Pochaiv Psycho-Neurological Care Home, Myrohoshcha PNCH, and Popovychi PNCH). The above indicates that the work of the institution is organised in the interests of the staff, without taking into account the interests and needs of the wards.

According to the Model Regulations on PNCH approved by CMU Resolution No. 957<sup>63</sup> of 14 December 2016 (hereinafter referred to as the “Model Regulations on PNCH”), medical, pedagogical or social worker places residents in living rooms or departments of the relevant supervision regime (intensive care, social and medical correction, social rehabilitation, supported living), taking into account the wishes, individual characteristics, age, diagnosis, and condition of the residents’ underlying disease. Although many residential institutions do not have an official division of residents into wards. They are actually placed in separate buildings without medical justification. The psychiatrist fails to indicate the regime of supervision in the patients’ medical histories and justifies the reasons for their stay in a particular building. The residents are deprived of the opportunity to leave the building, communicate with residents of other buildings, visit sports sections and a library and are actually in isolation. These violations were found in Volodymyrivskiy PNCH, Hrushiv PNCH, Zdolbuniv PNCH, and the Territorial Social Service Centre (for social services) of Zvenyhorodka City Council of Zvenyhorodka Raion of Cherkasy Oblast.

Another type of restriction of the right to freedom is the improperly organised work of institutions to restore the civil capacity of wards whose guardian is the institution, and the failure to appeal against the decision on appointing a person who does not fulfil their duties as a guardian (Ostroh PNCH, Kolomyia PNCH, Deliatyn PNCH, Pochaiv PNCH, and Baraboi PNCH).

The amendments to the CPCU<sup>64</sup> of 3 October 2017 introduced innovations in the procedure for declaring a person incapacitated and the procedure for restoring legal capacity.

<sup>63</sup> CMU Resolution No. 957 of 14 December 2016 “On Approval of the Model Regulations on Psycho-Neurological Care Home”: <https://zakon.rada.gov.ua/laws/show/957-2016-n#Text>.

<sup>64</sup> Civil Procedure Code of Ukraine: <https://zakon.rada.gov.ua/laws/show/1618-15#Text>.

Each court decision sets out the term of validity of the court decision on declaring a person incapacitated, which may not exceed 2 years. A petition to extend the validity of a decision to declare a person incapacitated may be filed by a guardian or a representative of the guardianship authority no later than 15 days before the expiry of the period specified in part 1 of Article 300 of the Code.

In general practice, the administration of detention facilities where persons deprived of legal capacity before 2017 are held does not send relevant documents to initiate a review of the court decision, as the wards are declared incapacitated indefinitely.

It is worth noting that such cases have become widespread and have been challenged in international courts.

In particular, in the case of *Nataliya Mikhaylenko v. Ukraine*<sup>65</sup>, the ECtHR noted that the lack of opportunities for an incapacitated applicant to personally apply for the restoration of their legal capacity was a violation of her right of access to a court in accordance with clause 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

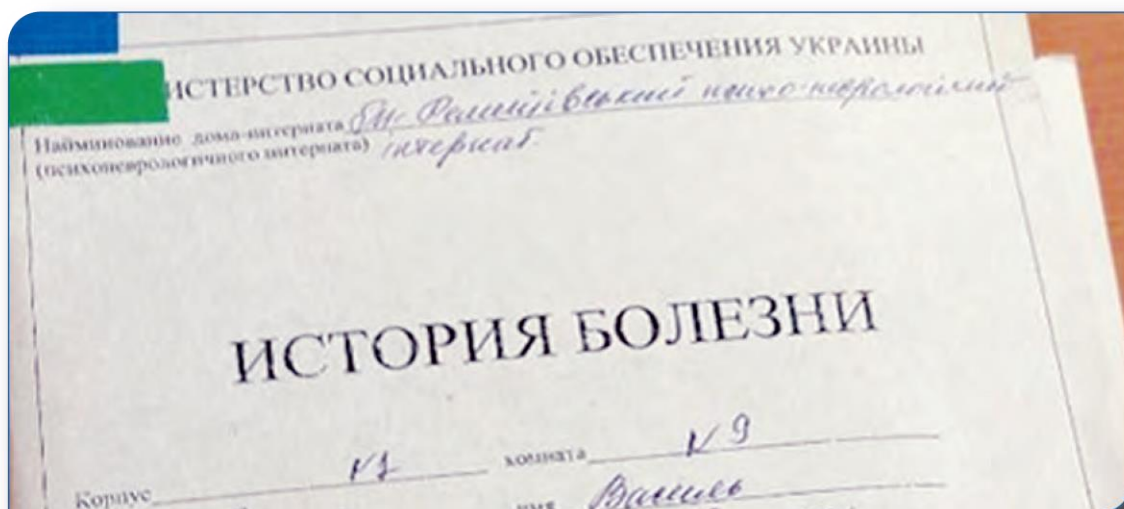
According to the concurring opinion of Judge Lemmens to the judgment in the case of *Nataliya Mikhaylenko v. Ukraine*, *“the general character of the prohibition on direct access to a court and the absence of any regular review by a court at reasonable intervals of the applicant’s legal capacity (or other procedural safeguards) are indicative of the disproportionate character of the restriction applied in the applicant’s case, as they result in the restriction being absolute and of indefinite duration.”*

So, despite the amendments to the legislation, the administrations of institutions ignore the possibility of restoring the legal capacity of their wards, who have been deprived of direct access to a court for decades, and in some cases for the rest of their lives, to appeal against the decision on declaring them incapacitated.

### Right to Healthcare and Medical Aid

In 2023, the problem of obtaining a licence for residential institutions to carry out medical practice or enter into agreements with healthcare facilities remained unresolved. In violation of the requirements of Article 7 of the Law of Ukraine “On Licensing of Economic Activity Types”<sup>66</sup> and the Criteria for the Activities of Social Service Providers approved by CMU Resolution No. 185<sup>67</sup> of 3 March 2020, residential institutions continue to provide medical care (Turi-Remety PNCH, Krynychky PNCH, and Vynohradiv CCH).

In addition, during the NPM visits, there were cases of inclusion in the staffing schedule of doctors’ positions that do not correspond to the current licence. For example, in Kyiv Geriatric Home, a psychiatrist and a surgeon provide medical services to residents even though the institution does not have a licence to practice medicine in these specialities.



<sup>65</sup> <https://hudoc.echr.coe.int/eng?i=001-119975>.

<sup>66</sup> Law of Ukraine “On Licensing of Economic Activity Types”: <https://zakon.rada.gov.ua/laws/show/222-19#Text>.

<sup>67</sup> Resolution of the Cabinet of Ministers of Ukraine No. 185 of 3 March 2020 “On Approval of Criteria for the Activities of Social Service Providers”: <https://zakon.rada.gov.ua/laws/show/185-2020-%D0%BF#Text>.

A significant problem for social care institutions is the failure to fill vacant medical positions for a long time, in some cases for years.

The process of verifying the appropriateness of the treatment prescribed is greatly complicated by the fact that residential institutions keep medical records in the outdated “medical history” form, which does not comply with current legislation, and that there are no documented doctor’s prescriptions, which makes it impossible to obtain reliable information about the health status of residents during the NPM visits (Horokhiv PNCH, Krynychky PNCH, Dnipropetrovsk Geriatric Home, and Turi-Remety PNCH).

The visits revealed numerous cases of failure of the medical staff to provide appropriate assistance to the residents, in particular to those who needed urgent consultation with a specialised doctor.

*During the visit to Krynychky PNCH, persons with viral hepatitis C were identified, but the medical staff did not provide information about their number and whether they received appropriate therapy, which may indicate a violation of the requirements of the Standards of Medical Care for Viral Hepatitis C in Adults approved by Order of the MoH of Ukraine No. 51<sup>68</sup> of 15 January 2021. The wards failed to receive the necessary treatment, which could have led to a deterioration in their health and the spread of the contagious disease.*

*In Antopil PNCH, 11 residents with epilepsy who receive continuous supportive treatment were identified. However, during the review of the medical records, it was found that the number of epileptic seizures had increased dramatically in one of the wards, who does not speak and therefore cannot report her health: four in June and two in July. However, during this period, according to the prescriptions and medical records, the prescription of anticonvulsants did not change, and the ward’s doctor did not examine the ward.*

*The management of the Inpatient Care Unit for Temporary or Permanent Residence of Pokrovsk Territorial Social Service Centre (for social services) failed to ensure that the ward was provided with medical care in an appropriate medical and preventive care facility, as well as to take other measures provided for in clause 3 of the Methodology for Organisation and Provision of Anti-Rabies Care approved by Order of the MoH of Ukraine No. 205<sup>69</sup> of 15 April 2004. During a visit to the department, a bedridden patient was found with red stains on the bed linen and mouse droppings in the bed. During the visual examination, with the consent of the ward, there were wounds on the fingers and feet of the lower extremities. The ward reported that he had been bitten by rodents while sleeping, but did not feel the bites because he had lost sensation in his lower limbs as a result of the disease. After the Commissioner’s intervention, the ward’s right to healthcare and medical services was restored, including the necessary vaccinations and medical services.*

More than a third of the institutions do not provide wards with haemolytic control who have been taking drugs with the active ingredient clozapine for a long time, which can lead to a deterioration in their health (Dnipropetrovsk Geriatric Home, Krynychky PNCH, and Deliatyn PNCH).

Due to the identified problems in the social care institutions with the provision of medical care, the NPM groups recorded cases of deterioration in the health of their wards. The Commissioner made relevant requests for each such fact.

*During the study of medical records in Krynychky PNCH, a record regarding ward Z. was found. During interviews with the medical staff of the institution and other wards, it became known that ward Z. had fallen and was injured, after which the emergency medical team hospitalised her in a healthcare facility. According to the discharge summary, the ward was treated from 4 August 2023 to 18 August 2023 and was diagnosed with: “Closed fracture of the middle and lower thirds of the right femur with displacement”, the limb was immobilised with a plaster cast. During the NPM visit, ward Z. was found in bed without a plaster cast on her right lower limb (according to the doctor’s recommendation, the plaster cast was prescribed until 4 November 2023), the limb was swollen, red, and the knees of both legs did not extend.*

<sup>68</sup> Order of the MoH of Ukraine No. 51 of 15 January 2021 “On Approval of the Standards of Medical Care for Viral Hepatitis C in Adults”: <https://zakon.rada.gov.ua/rada/show/v0051282-21#Text>.

<sup>69</sup> Order of the Ministry of Health of Ukraine No. 205 of 15 April 2004 “On Improving Measures to Prevent Rabies Diseases”: <https://zakon.rada.gov.ua/rada/show/v0205282-04#Text>.



*The medical staff, employees, and management of the institution did not explain why the plaster cast was removed earlier than the time prescribed by the doctor. There is no information in the medical records about the removal of the plaster cast, the examination of the ward by doctors of other specialities, and the implementation of prescriptions and other medical recommendations specified in the discharge summary. The ward has been lying down for about three months, unable to care for herself and forced to relieve herself in bed. The ward needed immediate medical examination and medical care. After the Commissioner's intervention, the ward was provided with a medical examination, and criminal proceedings were registered on this fact.*

The above indicates a violation of the ward's rights to healthcare and medical aid under Article 49 of the Constitution of Ukraine, Articles 7 and 38 of the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Health Care," Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms and the CPT Standards.

### **Rights of Persons with Disabilities and Reduced Mobility**

Clause 34 of the CPT Standards stipulates that the needs of elderly patients and patients with disabilities should be taken into account in the provision of psychiatric care.

Systemic violations of the requirements of SBN B.2.2-40:2018 "Inclusiveness of Buildings and Structures," which consist in the fact that the buildings of residential institutions are not adapted to the needs of persons with disabilities and other people with reduced mobility, were identified. In particular, the corridors of living premises are not equipped with handrails, the upper and lower steps of the staircase are not marked and do not contrast with other steps of the staircase and horizontal platforms of the staircase, doors have unequipped thresholds, there are no lifts or staircases, there are no handrails or other devices in the sanitary and hygienic facilities, ramps have too steep angles (Vasylykiv PNCH, Maznyky Care Home for Elderly People and Persons with Disabilities, Deliatyn PNCH, Novosavvyske PNCH, Leshkiv PNCH, Lviv Geriatric Home, etc.).

*Following the Commissioner's response, Zhmerynka PNCH was allocated additional funding in the total amount of UAH 869,700 for the installation of lifts and repair works.*

Violations of Article 24 of the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine" and the Procedure for Providing Auxiliary Rehabilitation Facilities (Technical and Other Rehabilitation Facilities) to Persons with Disabilities, Children with Disabilities and Other Certain Categories of Population and Payment of Monetary Compensation for Self-Purchased Facilities approved by CMU Resolution No. 321<sup>70</sup> of 5 April 2012, were identified. Due to the lack of specialists in institutions, there are vacancies in the positions of those involved in the rehabilitation and habilitation processes, which makes it impossible to carry out rehabilitation activities for the wards, especially for bedridden patients.

In violation of the Regulation on the Individual Rehabilitation Programme for Persons with Disabilities approved by CMU Resolution No. 757<sup>71</sup> on 23 May 2007, individual rehabilitation programmes for persons with disabilities (hereinafter referred to as the "IRP") are filled out formally, which does not create conditions for proper medical, social and other types of rehabilitation in residential institutions.

*During the study of the wards' personal profiles in Rivne PNCH, an IRP with the indication "the person is constantly bedridden" was found. During the interview, the social worker said that the person in question was not a bedridden patient and moved independently. In addition, the worker noted that not all wards are provided with personal presence during the meeting of the medical and social expert commission on the development or revision of the IRP.*

*Malyzhyne PNCH also does not provide a range of rehabilitation measures to the wards, as there is no position of a rehabilitation doctor in the institution.*

<sup>70</sup> CMU Resolution No. 321 of 5 April 2012 "On Approval of the Procedure for Providing Auxiliary Rehabilitation Facilities (Technical and Other Rehabilitation Facilities) to Persons with Disabilities, Children with Disabilities and Other Certain Categories of Population and Payment of Monetary Compensation for Self-Purchased Facilities, and their List": <https://zakon.rada.gov.ua/laws/show/321-2012-%D0%BF#Text>

<sup>71</sup> CMU Resolution No. 757 of 23 May 2007 "On Approval of the Regulation on the Individual Rehabilitation Programme for Persons with Disabilities": <https://zakon.rada.gov.ua/laws/show/757-2007-%D0%BF#Text>.

### **Violation of the Right to Effective Remedy**

Following the NPM visits, many violations of Article 14 of the Law of Ukraine “On Free Legal Aid”, namely the lack of cooperation with the FLA centres (Petrychanka PNCH, Khotyn PNCH, Vasylykiv PNCH, Romaniv PNCH, Novosavytske PNCH, Leshkiv PNCH, Vyshhorod Raion Territorial Social Service Centre (for social services), Zaporizhzhia CCH, etc.), were revealed.

During the NPM visits, non-compliance with the right of wards to receive information about their rights was identified. There are no notice stands in the institutions with information about the rights of the wards in an accessible form, as well as addresses and telephone numbers of hotlines of organisations and officials, which clients can contact in case of violation of their rights and interests, or such stands are located in a place inaccessible to clients (Petrychanka PNCH, Zhmerynka PNCH, Popovichi PNCH, Antopil PNCH, Khotyn PNCH, Vasylykiv PNCH, Maznyky Care Home for Elderly People and Persons with Disabilities, Deliatyn PNCH, Lviv Geriatric Home, etc.).

### **Right to an Adequate Level of Life**

Due to the Russian military aggression and the occupation of part of the territory of Ukraine, most places of custody, including the social security system, were evacuated from the areas where hostilities were taking place and those on the contact line. Due to the impossibility of providing separate buildings, the wards, and residents of the evacuated institutions were placed in functional institutions in different oblasts of Ukraine, which, in turn, led to their overcrowding.

Due to the need to accommodate internally displaced wards, the arrangement of living premises in the institutions has undergone significant changes, which often leads to violations of the space standards per person.

Significant violations of the space standards per person are observed in Baraboi PNCH, Veselokutsk PNCH, Popovichi PNCH, Malyzhyne PNCH, etc.

The Commissioner took into account the circumstances that led to the violation of the wards’ rights, but in 2023, there were no necessary actions taken by the administrations of the institutions and local authorities overseeing their activities to improve the living conditions of the wards and restore their rights.

During visits to social security institutions, there is an increase in cases of non-compliance with the Law of Ukraine “On Basic Principles and Requirements for Food Safety and Quality”<sup>72</sup> by institutions. This is evidenced by the large number of expired and unlabelled food products found by the NPM groups in the refrigerators and utility rooms of residential institutions (Stebliv PNCH, Baraboi PNCH, Bohodukhiv PNCH).

Despite numerous Commissioner’s recommendations, the issue of unimpeded access to drinking water for the wards, as well as the right to walk and access to fresh air, remains unresolved.

A common problem is the implementation by institutions of the Minimum Standards for the Provision of Items, Materials, and Equipment to Elderly People, Disabled People and Disabled Children in Residential Institutions and Territorial Social Service Centres (for Social Services) of the Social Protection System approved by the Order of the MSP of Ukraine No. 857<sup>73</sup> of 19 August 2015, namely, ensuring timely replacement and maintenance of soft and hard equipment, clothing, and footwear of the wards.

<sup>72</sup> Law of Ukraine “On Basic Principles and Requirements for Food Safety and Quality”: <https://zakon.rada.gov.ua/laws/show/771/97-%D0%B2%D1%80#Text>.

<sup>73</sup> Order of the Ministry of Social Policy of Ukraine No. 857 of 19 August 2015 “On Approval of Minimum Standards for the Provision of Items, Materials, and Equipment to Elderly People, Disabled People and Disabled Children in Residential Institutions and Territorial Social Service Centres (for Social Services) of the Social Protection System”: <https://zakon.rada.gov.ua/laws/show/z1068-15#Text>.





Despite receiving humanitarian aid and support from philanthropists and charitable organisations, worn-out clothes, dirty bed linen and a lack of storage space for personal belongings have become an integral part of the social care system in different regions of Ukraine.

Failure to comply with the above standards leads to a general deterioration in the living conditions of the wards, violation of sanitary standards, spread of contagious diseases, etc.

During the NPM visits in 2023, institutions whose residential buildings or separate premises require urgent major repair as they pose a danger to the life and health of the residents and staff (Antopil PNCH and Dnipro Geriatric Home) were identified.

### **Right to Own, Use and Dispose of Property**

During the review of documents of the social security institutions, numerous violations of the rights of wards to own, use and dispose of their own funds that constitute a violation of Article 41 of the Constitution of Ukraine and the Procedure for the Use of Pensions (Monthly Lifetime Allowance) and/or State Social Benefits Accrued in Accordance with the Law for Orphans, Children Deprived of Parental Care, Incapacitated Persons and Persons with Limited Civil Capacity Who are Residents/Wards of CCHs or PNCHs approved by Order of the MSP of Ukraine No. 1173<sup>74</sup> of 17 August 2018, were identified.

Unfortunately, such cases are not rare and are becoming common. The most common cases of violations are when the facility staff purchases goods at their own discretion at the personal expense of the wards without their consent, without keeping records of the turnover of funds and informing the wards about the amount of funds on their personal accounts.

*During the visit to Krynychky PNCH, it was established that the institution does not keep files on the use of funds for each ward, which should include accounting documentation, requests, acts, receipts, sales and cash receipts, copies of bank statements, and information on the movement of funds for the reporting period. Similar cases were found in Horodnia PNCH.*

There were cases where the funds of incapacitated wards under the institution's care had been accumulating in bank accounts for years. During the visit to Deliatyn PNCH, the total amount of funds of 16 incapacitated wards accumulated in bank accounts was UAH 1,069,864.76. Only after the Commissioner's response did the institution start spending money to meet the personal needs of the wards.

<sup>74</sup> Order of the Ministry of Social Policy of Ukraine No. 1173 of 17 August 2018 "On Approval of the Procedure for the Use of Pensions (Monthly Lifetime Allowance) and/or State Social Benefits Accrued in Accordance with the Law for Orphans, Children Deprived of Parental Care, Incapacitated Persons and Persons with Limited Civil Capacity Who are Residents/Wards of Children's Care Homes or Psycho-Neurological Care Homes": <https://zakon.rada.gov.ua/laws/show/z1055-18#Text>.

In addition, the NPM groups recorded individual cases of facility authorities using the funds of deceased wards for burial, which is contrary to the norms of the current legislation.

*In Antopil PNCH, based on the results of the study of personal profiles on the use of funds of incapacitated wards, it was found that medicines (sodium chloride solution, mannitol solution, diclofenac solution, Asparcam tablets), dichlorvos and sticky fly tape used in the PNCH, were also purchased at the expense of wards that completely negates the legislative provisions on state support in psycho-neurological institutions, under which 75 per cent of the pension of the wards is used to meet the needs of the institution. There were also a number of protocols revealed, according to which coffins and funeral kits were purchased at the wards' expense, which constitutes a gross violation of the current legislation.*

## 7.4. Problems with Ensuring Rights of Man and Citizen in Private Care Homes for the Elderly and Persons with Disabilities

According to the United Nations Population Fund, as of early 2023, 36.7 million people lived in Ukraine, more than 20% (7.34 million) of which were over the age of 65. This means that the number of elderly people and people with disabilities in public and private institutions is constantly growing.

According to the Register of Providers and Recipients of Social Services<sup>75</sup> (hereinafter referred to as the "Register"), the number of non-governmental providers of inpatient care social services was 267 as of 31 December 2023. However, the actual number of such facilities is much higher. Today, there are no statistics on the number of people in private care homes because they are not entered into the Register. The procedure for entering information into the Register is voluntary.

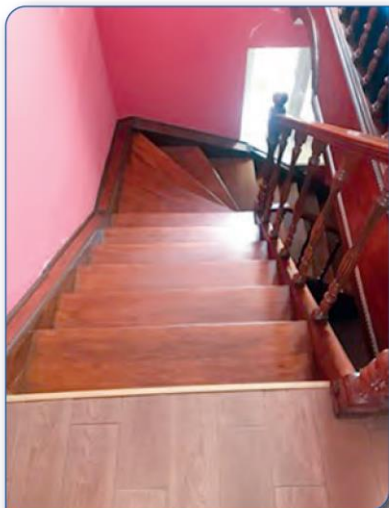
As there is no liability for failure to enter information into the Register, most entrepreneurs operate illegally.

The main problem in conducting inspections of private social service providers is the lack of an appropriate mechanism for identifying such entities, as the current regulatory acts do not define the authorised bodies and the procedure for monitoring the activities of private institutions, as well as the mechanism for terminating their activities in case of violations of the law. In most cases, inspection bodies are not allowed to enter the territory of private property. It is not uncommon for branches of organisations that actually operate in one community to be registered in another.

Privacy and isolation of private care homes, in particular to the public, leads to the helplessness of the wards and the violation of their rights. So, the NPM visits to private care homes where elderly people and people with disabilities are effective and one of the few tools to prevent torture and ill-treatment of persons belonging to a vulnerable category and staying in closed facilities.

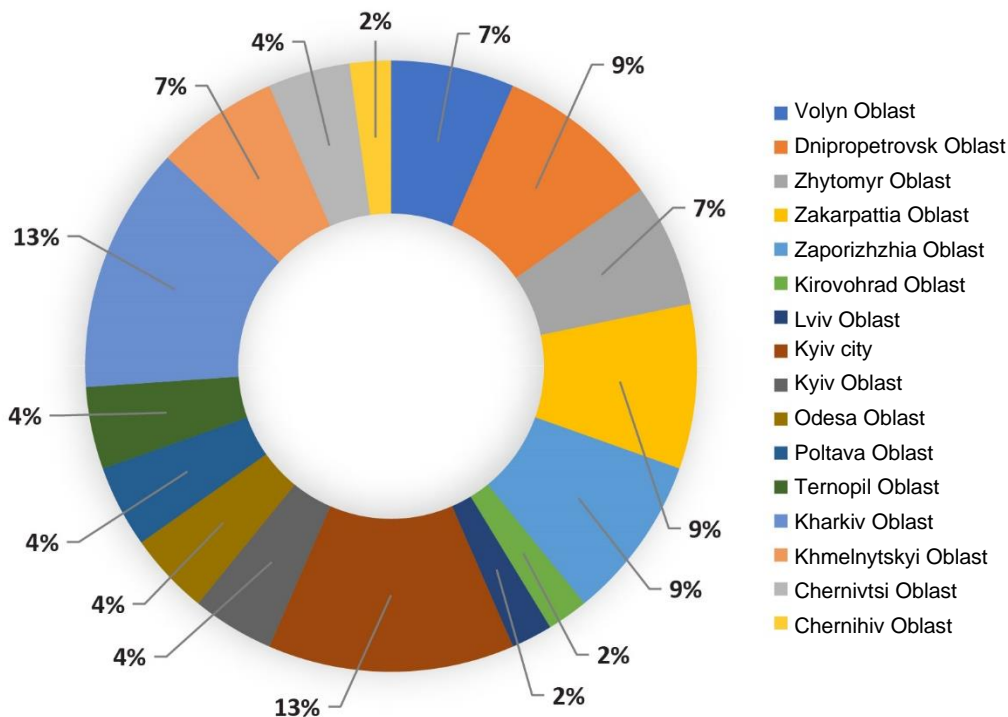


<sup>75</sup> Resolution of the Cabinet of Ministers of Ukraine No. 99 of 27 January 2021 "On the Register of Providers and Recipients of Social Services": <https://zakon.rada.gov.ua/laws/show/99-2021-%D0%BF#Text>



In 2023, the Department for the Implementation of the NPM, together with public monitoring officers, visited 48 private facilities for the elderly and persons with disabilities, in particular: 3 in Volyn Oblast, 4 in Dnipropetrovsk Oblast, 3 in Zhytomyr Oblast, 4 in Zakarpattia Oblast, 4 in Zaporizhzhia Oblast, 1 in Kirovohrad Oblast, 1 in Lviv Oblast, 6 in Kyiv City, 2 in Kyiv Oblast, 2 in Odesa Oblast, 2 in Poltava Oblast, 2 in Rivne Oblast, 2 in Ternopil Oblast, 6 in Kharkiv Oblast, 3 in Khmelnytskyi Oblast, 2 in Chernivtsi Oblast, and 1 in Chernihiv Oblast. Despite some progress in the provision of care, many human rights violations have been identified in facilities, which allows concluding that it is necessary to apply systematic control by the authorised public authorities over the activities of private social service providers of inpatient care and to introduce appropriate amendments to the legislation.

**Number of visits to private facilities for the elderly and persons with disabilities in 2022**



Private care homes usually are located in rented private houses, which mostly lack defence facilities (shelters) and any equipped premises that should ensure the safe stay of the wards in case of air-raid alarm or shelling. Persons with reduced mobility are placed on the upper floors of the building, which makes it impossible for them to evacuate quickly in case of an emergency. The so-called “two-wall rule” does not apply to them either, as they cannot get out of bed without assistance. At the same time, there are not enough staff to ensure that the residents are moved to a relatively safe place. In addition, most care homes are not equipped with fire alarms and fire extinguishers or have not undergone timely maintenance.

Social service agreements are usually concluded not with wards but with their relatives, which sometimes leads to involuntary placement of elder people in a residential institution.

As elderly people belong to a vulnerable category of people in need of treatment and medical care, organising their health care is the most important task for the care home staff. However, there is a lack of staff to care for wards around the clock. Among the vast majority of the facilities visited, only one member of staff has a medical degree. The lack of proper organisation of medical care is also related to the lack of vocational training of care staff. The vast majority of private care homes do not have a licence to carry out medical practice or an agreement with a healthcare facility.

Most care homes are not adapted to the needs of persons with disabilities and other persons with reduced mobility, as they are not equipped with lifts or staircases, and there are no ramps or handrails in the corridors, which prevents the free and safe movement of elder people around the facility. The leisure time of the wards of the visited institutions is extremely limited and mostly consists of watching TV and reading books.

After each visit, the business entity operating in the care home for the elderly and persons with disabilities is sent letters with recommendations on how to eliminate the identified violations. The actual state of implementation of the recommendations will be clarified during repeated visits.

In addition, in October 2023, the Commissioner chaired a roundtable discussion on “Observance of Human Rights of Elder People and Persons with Disabilities by Private Social Service Providers during Martial Law”, which resulted in recommendations to all competent authorities on how to regulate the activities of private care homes.

### Recommendations

#### To the Cabinet of Ministers of Ukraine:

- Entrust the authorised bodies to develop and introduce the necessary amendments to the regulatory acts to regulate the issue of remuneration of employees of the social protection system
- Entrust the authorised bodies to develop and introduce the necessary amendments to the regulatory acts to bring the level of remuneration of medical, pharmaceutical, and rehabilitation specialists working in social service facilities with round-the-clock accommodation (stay) in line with the level of remuneration of the relevant specialists in healthcare facilities

#### To the MSP of Ukraine:

- Develop and submit to the CMU draft laws of Ukraine on regulating the development and regulation of the social services market, defining legal and organisational framework for state control over compliance with the requirements of the legislation by private social service providers
- Develop and submit to the CMU a draft Strategy for Reforming Psycho-Neurological and Other Residential Institutions and Deinstitutionalising Care for Persons with Disabilities and the Elderly, and an operational plan for its implementation



- Bring the Law of Ukraine “On Social Services” and other regulatory acts in line with the model provisions on:
- PNCH (CMU Resolution No. 957 of 14 December 2016), taking into account the judgement of the ECtHR in the case of Kaganovskyy v. Ukraine and the requirements of the Decree of the President of Ukraine No. 30/2021 of 29 January 2021 “On Some Measures to Ensure the Right of Citizens to Quality and Safe Social Services”
- CCH (CMU Resolution No. 978 of 14 December 2016)
- Care homes for elderly people and persons with disabilities (CMU Resolution No. 772 of 2 September 2020)
- Territorial social service centre (for social services) (CMU Resolution No. 1417 of 29 December 2009)
- Centre for social services (CMU Resolution No. 177 of 3 March 2020)
- Improve state standards for social services, in particular the State Standard for Inpatient Care for Persons Who Have Lost the Ability to Care for Themselves or Have Not Acquired Such Ability (Order of the MSP No. 198 of 29 February 2016), and the State Standard for Palliative Care (Order of the MSP No. 58 of 29 January 2016)
- Review the Minimum Standards for the Provision of Items, Materials, and Equipment to Elderly People, Disabled People and Disabled Children in Residential Institutions and Territorial Social Service Centres (for Social Services) of the Social Protection System approved by Order of the MSP of Ukraine No. 857 of 19 August 2015, to bring them in line with the requirements of the current legislation in the field of social services provision and the practical needs of wards/residents thereof
- Review the Order of the MSP of Ukraine No. 893 of 6 June 2019 “On Approval of Methodological Recommendations for Determining the Number of Employees of Residential Institutions/Facilities of the Social Protection System” to increase and bring the number of medical and nursing staff in line with the real needs of residential institutions
- Develop and approve the procedure for detecting and registering cases of bodily injuries during the arrival and residence (stay) of social service recipients at social service providers with round-the-clock accommodation (stay), forms of registers for such injuries, the procedure for reporting them to the relevant law enforcement agencies and healthcare facilities, a questionnaire on the presence of bodily injuries and the procedure for recording their detection
- Develop a system of social services for the elderly and people with disabilities, including those with intellectual and mental disorders, in the territorial communities where they live

**To the NSSU:**

- Constantly monitor the compliance of social service providers, including those with round-the-clock accommodation (stay), with the Criteria for the activities of social service providers and the requirements of state standards of social services
- Provide organisational and methodological support to social service providers, including those with round-the-clock accommodation (stay), in providing social support and social services
- Ensure control over the availability of contracts with healthcare facilities or licences for medical practice for social service providers with round-the-clock accommodation (stay)
- Organise the capacity building of employees of the NSSU territorial bodies and their methodological support in compliance with state standards of social services, in terms of observance of the rights of social service recipients who are in residential care facilities with round-the-clock accommodation (stay)
- Together with the State Service of Ukraine for Food Safety and Consumer Protection, monitor compliance by social service providers with sanitary and hygiene and anti-epidemic requirements, as well as requirements for food safety and quality



**To the MoH of Ukraine:**

- Ensure that providers of social services with round-the-clock accommodation (stay) comply with licensing conditions for economic activities in medical practice
- Ensure control over the provision of medical care, including psychiatric one, to residents/wards who live (stay) with a social service provider that has a licence to medical practice
- Develop and approve sanitary regulations for PNCHs, CCHs and care homes for elderly people and persons with disabilities in pursuance of Decree of the President of Ukraine No. 553/2016 of 13 December 2016 “On Measures Aimed at Ensuring the Observance of the Rights of Persons with Disabilities”

**To the SES:** ensure that providers of social services with round-the-clock accommodation (stay) comply with the Fire Safety Regulations.

**To the State Service of Ukraine for Food Safety and Consumer Protection:** together with the NSSU, monitor compliance by social service providers with sanitary and hygiene, anti-epidemic requirements, as well as requirements for food safety and quality.

**To the Ministry of Finance:** consider amending the CMU Resolution No. 590 of 9 June 2021 “On Approval of the Procedure for Exercising Powers by the State Treasury Service in a Special Regime under Martial Law” regarding the possibility for social service providers with round-the-clock accommodation (stay) to purchase items and materials following the needs of social service recipients.

**To Oblast and Kyiv City Military Administrations:**

- Take measures to organise and monitor the arrangement, operation, and maintenance of civil defence facilities in residential social protection institutions
- Take measures to identify entities that actually provide social services for care, and stay/residence to the elderly and persons with disabilities, to bring the activities of such entities in line with the requirements of the law
- Ensure that entities that actually provide social services for care, and stay/residence to the elderly and persons with disabilities enter the relevant information into the Register of Providers and Recipients of Social Services
- Carry out regular training for social service providers, including private ones, with the involvement of NGO representatives
- Ensure that social service providers with round-the-clock accommodation (stay) obtain licences for economic activities in medical practice
- Take measures to bring the activities of social service providers with round-the-clock accommodation (stay) in line with state standards of social services and the Criteria for the activities of social service providers approved by the Resolution of the CMU No. 185 of 3 March 2020, in particular, to organise barrier-free space in the premises of social service providers with round-the-clock accommodation (stay) following the requirements of SBN B.2.2–40:2018
- Take measures to provide medical care to residents/wards, including signing a declaration by all wards and legal representatives on the choice of a doctor who provides primary health care
- ensure control over the cooperation of social service providers with healthcare institutions, in particular in terms of providing primary and specialised medical care to wards/residents
- Monitor the provision of safe nutrition, the quality of social services, the organisation of medical care for wards, sanitary and hygienic, anti-epidemic (preventive) and fire protection measures
- Strengthen control over the quality of the organisation and conduct of examinations of wards by the medical and social expert commission, and of children by the medical advisory commission, to establish their disability and provide them with individual rehabilitation programmes in accordance with the law

- Ensure the implementation of the measures specified in individual rehabilitation programmes for children and persons with disabilities, in particular, to organise the provision of rehabilitation measures and orthopaedic footwear
- Ensure that social service institutions comply with the Methodological Recommendations on the Organisation of Occupational Therapy for the Elderly, Persons with Disabilities, and Children with Disabilities in Institutions/Facilities of the Social Protection System approved by Order of the MSP No. 1778 of 26 November 2018
- Establish cooperation with FLI centres
- Ensure that providers of social services with round-the-clock accommodation (stay) place information on the rights of persons with disabilities, telephone numbers of hotlines, officials, including the Commissioner and the Centre for Free Legal Aid, to whom persons can apply, in an accessible place and form

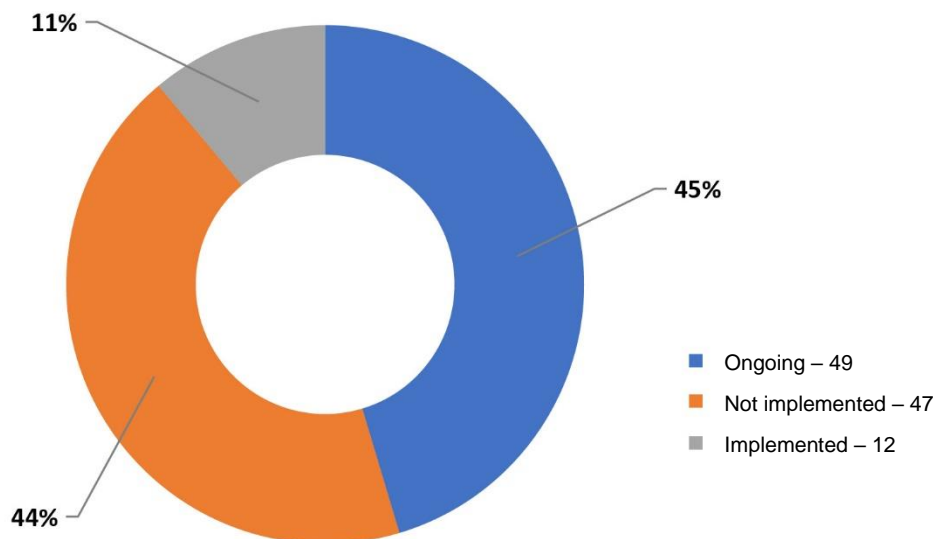


# **SECTION 8**

**PROGRESS IN IMPLEMENTING THE  
RECOMMENDATIONS OF THE  
UKRAINIAN PARLIAMENT  
COMMISSIONER FOR HUMAN RIGHTS  
MADE FOLLOWING THE NPM VISITS  
IN 2022**

## INFORMATION ON THE PROGRESS IN IMPLEMENTING the recommendations set out in the Special Report of the Ukrainian Parliament Commissioner for Human Rights “On the Progress in the Implementation of the National Preventive Mechanism in Ukraine in 2022”

Progress in implementing the 2022 recommendations, % of implementation



Number	Recommendation	Progress in implementing
<b>RESULTS OF MONITORING THE OBSERVANCE OF HUMAN RIGHTS IN PLACES OF CUSTODY MANAGED AND COORDINATED BY THE MIA OF UKRAINE</b>		
<b>The MIA of Ukraine, the MoJ, the MoH, the MSP, together with the Oblast and Kyiv City Military Administrations, shall:</b>		
1.	Organise a record (separately for each institution/facility) of persons held in places of custody as of 23 February 2022, their possible displacement and whereabouts	ONGOING
2.	Conduct internal investigations into those who failed to take timely and effective measures to evacuate detainees to safe areas since the beginning of the full-scale invasion	IMPLEMENTED
<b>Oblast and Kyiv City Military Administrations shall:</b>		
3.	Take measures to temporarily displace (evacuate) children and persons under the Procedure for Temporary Displacement (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Different Types, Forms of Ownership and Subordination for Round-the-Clock Stay and Return to their place of permanent residence (stay), and in case of leaving Ukraine – to Ukraine, approved by Resolution of the CMU No. 546 of 1 June 2023 (hereinafter referred to as the “Procedure”).	ONGOING
4.	Together with the NSSU, the MoH, the MES of Ukraine, the MoD of Ukraine, the MYS of Ukraine, and the MCIP of Ukraine, identify organisations, institutions, and facilities where children and persons subject to temporary displacement (evacuation) may be temporarily placed under the Procedure	ONGOING



Number	Recommendation	Progress in implementing
<b>The NSSU shall:</b>		
5.	Ensure control over the temporary displacement (evacuation) of children and persons following the Procedure	ONGOING
<b>The MIA of Ukraine shall:</b>		
6.	Develop and approve standards for the provision of household equipment for RDs of duty units, TDFs, reception centres for persons subjected to administrative arrest, and temporary detention facilities for foreigners and stateless persons illegally staying in Ukraine	ONGOING
7.	Amend the Instruction on the Organisation of the Duty Service of the National Police Bodies (Units) approved by Order of the MIA of Ukraine No. 440 of 23 May 2017 and provide for the provision of three hot meals a day to all detainees and remanded persons who stay in the building (premises) of a police body (unit) for more than three hours	ONGOING
8.	Initiate amendments to Joint Order of the MIA of Ukraine and the MoH of Ukraine No. 612/679 of 6 July 2016 “On the Procedure for Recording the Facts of Applying to and Being Taken to Healthcare Facilities in Connection with Criminal Injuries and Informing Police Bodies and Units about Such Cases” in relation to the peculiarities of recording detected bodily injuries in detainees before they are taken to TDFs in state and municipal healthcare facilities in line with the recommendations of the Guidelines on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	IMPLEMENTED
9.	Initiate the development of departmental building codes for police bodies, taking into account international standards and national legislation, in particular on access for persons with disabilities and reduced mobility	ONGOING
10.	Ensure compliance with the requirements of the Procedure for Training and Advanced Training of Persons Obligated to Provide First Aid approved by the CMU Resolution No. 1115 of 21 November 2012	IMPLEMENTED
11.	Ensure that the conditions of detention in TDFs and RDs of the National Police of Ukraine comply with the Law of Ukraine “On Remand”, the Instruction on the Organisation of the Duty Service of the National Police Bodies (Units) approved by Order of the MIA of Ukraine No. 440 of 23 May 2017, the Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules, the recommendations of the CPT “Detention by Law Enforcement Officials” CPT/Inf(92)3-part1	NOT IMPLEMENTED
12.	Ensure the introduction of the Custody Records information subsystem in all territorial units of the NPU	ONGOING
<b>The National Police of Ukraine shall:</b>		
13.	Stop the practice of excessive use of force and special means by police officers, provide for appropriate preventive measures, and ensure timely internal investigation of violations of the rights of persons held in NPU units	ONGOING
14.	Organise training and advanced training for police officers in first aid skills	ONGOING
15.	Develop and ensure the implementation of training programmes for police officers on human rights, prevention of torture and other cruel, inhuman or degrading treatment	IMPLEMENTED

Number	Recommendation	Progress in implementing
16.	<p>Ensure:</p> <ul style="list-style-type: none"> <li>– Appointing officials responsible for the custody of detainees in all territorial police bodies and the proper performance of their duties</li> <li>– Immediate drafting by the police of procedural documents (protocols) on the detention of persons with all the information required by the CrCPU (place, date and exact time (hour and minutes) of detention, etc.)</li> <li>– Equipping each territorial police unit with office premises for interviewing and conducting procedural actions with visitors invited and delivered to police bodies (units)</li> <li>– Immediate notification of secondary legal aid centres of detention of persons</li> <li>– Conducting medical examinations of persons before they are placed in a TDF</li> <li>– Functioning of an RD in all police divisions and raion PDs</li> <li>– Accessibility for persons with disabilities to all territorial police bodies</li> <li>– Proper administration of the Custody Records information subsystem under Order of the MIA No. 311 of 24 May 2022</li> </ul>	ONGOING
<b>RESULTS OF MONITORING THE OBSERVANCE OF HUMAN RIGHTS IN COURTS</b>		
<b>The SJA of Ukraine shall:</b>		
17.	Ensure that all courts dismantle metal cages to hold persons brought to court to participate in court hearings	ONGOING
18.	<p>Take measures to bring court premises in line with SBN 2.2-26:2010, namely to equip all courts with:</p> <ul style="list-style-type: none"> <li>– Cells, premises for guard personnel and sanitary facilities</li> <li>– A room for lawyers to work with defendants (convicts)</li> <li>– A room for a defendant (a convict) to read the case file</li> </ul>	NOT IMPLEMENTED
19.	Ensure that defendants (convicts) are escorted to the courtroom via an isolated route	NOT IMPLEMENTED
20.	Create appropriate conditions for the participation of people with reduced mobility in court hearings and equip the court premises following the norms of SBN .2-40:2018	NOT IMPLEMENTED
21.	Ensure compliance with fire safety in courts	ONGOING
22.	Take urgent measures to ensure the exercise of the right to security in the context of military aggression against Ukraine during the hearings in courts that do not have civil defence facilities	ONGOING
<b>RESULTS OF MONITORING THE OBSERVANCE OF HUMAN RIGHTS IN PRE-TRIAL DETENTION AND PENITENTIARY INSTITUTIONS OF THE MOJ OF UKRAINE</b>		
<b>The MoJ of Ukraine shall:</b>		
23.	Work on bringing the current structure of the SPSU in line with the requirements of the Law of Ukraine "On the State Penitentiary Service of Ukraine"	NOT IMPLEMENTED
24.	Provide a sufficient number of copies of regulatory acts defining the rights and obligations of persons held in PTDFs and correctional colonies in one of the United Nations languages to familiarise convicts and persons in custody who do not speak Ukrainian with their rights and obligations	NOT IMPLEMENTED
25.	Revise the planned occupancy of the institutions, taking into account the actual living space for the accommodation of convicts and prisoners, following the PTDF (PI) and CC living space measuring certificates	NOT IMPLEMENTED

Number	Recommendation	Progress in implementing
26.	Ensure compliance with the requirements of Article 115 of the CEC of Ukraine and Article 11 of the Law of Ukraine “On Remand” in terms of compliance with the space standards for a convict and a person in custody	NOT IMPLEMENTED
27.	Ensure that the requirements of Article 8 of the Law of Ukraine “On Remand” are met in terms of compliance with the principle of separation of different categories of convicts and prisoners	NOT IMPLEMENTED
28.	Improve the mechanism of interaction between PIs, probation authorities and social patronage entities aimed at the social adaptation of convicts, their correction, and resocialisation	ONGOING
29.	Develop and implement a mechanism for redirecting personal funds of convicts (prisoners) after their evacuation to other institutions	IMPLEMENTED
30.	Take urgent measures to ensure fire safety in PTDFs and correctional colonies in accordance with the requirements of the Fire Safety Regulations	IMPLEMENTED
31.	Improve the mechanism of control over the prevention of torture and other cruel, inhuman or degrading treatment or punishment of convicts and persons in custody	ONGOING
32.	Develop memos for various categories of staff of PIs and PTDFs who directly interact with convicts and persons in custody on the requirements of national and international regulatory acts on the prevention of torture and other cruel, inhuman or degrading treatment or punishment	IMPLEMENTED
33.	Include in the functional duties of junior and senior personnel of PIs and PTDFs who directly interact with convicts and persons taken into custody the obligation to be familiar with the requirements of national and international regulatory acts on the prevention of torture and other cruel, inhuman or degrading treatment or punishment	NOT IMPLEMENTED
34.	Prevent unacceptable restrictions or demands by junior and senior personnel of PIs and PTDFs towards convicts and persons in custody that may be regarded as stigmatising, discriminatory or segregating	IMPLEMENTED
35.	Dismantle the metal cages, heavily barred window blocks and bed locking devices in the premises of the DICEs and the CTR (SC), the presence of which is considered a violation of human rights	ONGOING
36.	Review the practice of cooperation between penal institutions and municipal healthcare facilities to ensure the proper level of medical care for convicts and persons in custody	NOT IMPLEMENTED
37.	Ensure compliance with appropriate sanitary and epidemiological standards in the institutions of the SPSU	NOT IMPLEMENTED
38.	Eliminate the erroneous practice of using convicts and persons in custody to perform functions that, according to regulatory acts, should be performed by the administration of penal institutions	NOT IMPLEMENTED
39.	Review the organisation of bomb shelters for staff, convicts, and persons in custody in PIs and PTDFs, and take additional measures to ensure their proper arrangement and equipment under SBN B.2.2-5:2023 “Civil Defence Facilities” approved by Order of the Ministry of Community, Territorial, and Infrastructure Development of Ukraine No. 702 of 10 August 2023	NOT IMPLEMENTED
40.	Take urgent measures to equip the premises of PIs and PTDFs to meet the needs of people with reduced mobility	NOT IMPLEMENTED
41.	Ensure the observance of labour and social rights of convicts involved in labour, in particular, in heavy work and work in harmful conditions	ONGOING

Number	Recommendation	Progress in implementing
42.	Ensure that the rights of employees from among the convicts to labour protection, safety and occupational sanitation, established by labour legislation, are observed	NOT IMPLEMENTED
43.	Initiate roundtables, workshops, and meetings to discuss the forced issue of passports to convicts, and identify ways and measures to improve this area of service	ONGOING
44.	Take additional measures to bring the conditions of detention in PIs and PTDFs in line with national legislation and international standards	NOT IMPLEMENTED
45.	place information on the activities of the NPM and the procedure for applying to the Commissioner in places of mass stay of convicts, libraries of PIs and PTDFs, cell blocks, outdoor courtyards and stands with visual information on the departments of the social and psychological service	IMPLEMENTED
46.	Conduct joint inspections (reviews) of PIs and healthcare facilities of SI "Healthcare Centre of the SPSU" to determine the safety of detention in them, with due regard to the technical condition of buildings and structures, civil defence facilities (shelters) and evacuation plans.	ONGOING
47.	Develop and submit to the CMU a draft law on amendments to civil legislation on forensic psychiatric examination in the process of consideration of a petition in court (Article 300 of the CPCU)	NOT IMPLEMENTED
<b>The SI "Healthcare Centre of the SPSU" shall:</b>		
48.	Staff medical units and multidisciplinary healthcare facilities with qualified medical professionals	ONGOING
49.	Provide medical units and multidisciplinary healthcare facilities with medical equipment, medicines and medical devices in accordance with their needs	ONGOING
50.	Develop and approve the procedure for providing medical care to prisoners held in PTDFs of the SPSU	ONGOING
51.	Ensure compliance with the Procedure for Organising Medical Care for Prisoners approved by Order of the MoJ and the MoH No. 1348/5/572 of 15 August 2014, during medical care of convicted persons in SPSU institutions, including the provision of proper initial and preventive medical examinations	ONGOING
52.	Ensure effective cooperation with municipal healthcare facilities and timely referral of convicts and prisoners for examination and treatment	NOT IMPLEMENTED
53.	Ensure proper diagnosis and treatment of HIV and viral hepatitis C in persons who are suspected/diagnosed	NOT IMPLEMENTED
54.	Ensure compliance with the requirements of the Standard of Infection Control for Healthcare Facilities Providing Care to Patients with Tuberculosis approved by Order of the MoH No. 287 of 1 February 2019	NOT IMPLEMENTED
55.	Ensure that all convicts and prisoners who need it can receive medical nutrition	NOT IMPLEMENTED
56.	Organise SMT in medical units for people with mental and behavioural disorders due to opioid use	ONGOING
57.	Ensure effective interaction between psychiatrists and social and psychological service workers in SPSU institutions to ensure proper medical care for people with mental disorders, including effective suicide prevention	ONGOING
58.	Ensure the observance of medical secrecy and confidentiality of convicts and prisoners during the provision of medical care	NOT IMPLEMENTED

Number	Recommendation	Progress in implementing
59.	Create appropriate conditions on the territory of medical units and multidisciplinary medical institutions for the maintenance of people with disabilities and the provision of effective rehabilitation care	NOT IMPLEMENTED
<b>RESULTS OF MONITORING THE OBSERVANCE OF HUMAN RIGHTS IN PLACES OF DETENTION UNDER THE JURISDICTION OF THE MOH OF UKRAINE</b>		
<b>The MoH of Ukraine shall:</b>		
60.	Develop and implement a procedure for conducting a physical examination of patients following the recommendations of the Istanbul Protocol and an appropriate medical form for the proper documentation of torture and other cruel, inhuman or degrading treatment or punishment, and make appropriate amendments to Order of the MoH No. 110 of 14 February 2012 "On Approval of Primary Record Forms and Instructions for their Completion Used in Healthcare Facilities Regardless of Ownership and Subordination"	ONGOING
61.	Develop and implement a procedure for organising the provision of psychiatric care if a court applies preventive measures to a person in respect of whom CMMs are to be applied or the issue of their application is being considered	NOT IMPLEMENTED
62.	Develop and implement a procedure for the use of electroconvulsive therapy	NOT IMPLEMENTED
63.	Monitor the implementation by service providers of the requirements of the NHSU package "Inpatient Psychiatric Care for Adults and Children"	NOT IMPLEMENTED
64.	Agree on the compliance of the list of medicines provided by the NHSU under the medical guarantee programme with the clinical protocols for the treatment of diseases	NOT IMPLEMENTED
65.	Develop and approve a mechanism to prevent possible misuse of the continuation of CMMs by special mental health facilities to obtain additional funding	NOT IMPLEMENTED
66.	Ensure the translation of risk assessment scales (HCR-20 Version 3, etc.)	NOT IMPLEMENTED
67.	Initiate amendments to Article 13 of the Law of Ukraine "On Psychiatric Aid" in accordance with the decision of the Constitutional Court of Ukraine	NOT IMPLEMENTED
68.	Develop and approve a procedure for incapacitated patients under the care of the facility to use personal funds during their stay in healthcare facilities	NOT IMPLEMENTED
69.	Ensure that providers of social services with round-the-clock accommodation (stay) comply with licensing conditions for economic activities in medical practice	NOT IMPLEMENTED
70.	Ensure control over the provision of medical care, including psychiatric one, to residents/wards who live (stay) with a social service provider that has a licence to medical practice	NOT IMPLEMENTED
71.	Approve sanitary regulations for PNCHs, CCHs and care homes for elderly people and persons with disabilities in pursuance of Decree of the President of Ukraine No. 553/2016 of 13 December 2016 "On Measures Aimed at Ensuring the Observance of the Rights of Persons with Disabilities"	NOT IMPLEMENTED
72.	Develop and implement the procedure for evacuation in special mental health institutions, in particular, for persons held in these institutions by court order	NOT IMPLEMENTED



Number	Recommendation	Progress in implementing
<b>The MIA of Ukraine and the MoH of Ukraine shall:</b>		
73.	Amend the Procedure for recording the facts of referral and delivery of persons to healthcare facilities in connection with criminal injuries and informing the police authorities and units about such cases in terms of giving the patient's consent to notify the police about the detected criminal injuries, recording such injuries during their stay in a healthcare facility	NOT IMPLEMENTED
<b>The NHSU and healthcare units of the OMAs shall:</b>		
74.	Ensure that service providers meet the requirements of the NHSU package "Inpatient Psychiatric Care for Adults and Children"	NOT IMPLEMENTED
75.	Take measures to implement a programme to prevent burnout among healthcare professionals providing mental health services	NOT IMPLEMENTED
<b>The MoH of Ukraine and the MSP of Ukraine shall:</b>		
76.	Develop and implement rehabilitation programmes for victims of torture	NOT IMPLEMENTED
<b>The SES of Ukraine shall:</b>		
77.	Ensure that mental health facilities comply with the Fire Safety Regulations	IMPLEMENTED
78.	Ensure that providers of social services with round-the-clock accommodation (stay) comply with the Fire Safety Regulations	NOT IMPLEMENTED
<b>Oblast and Kyiv City Military Administrations shall:</b>		
79.	Ensure that medical facilities are equipped in accordance with the requirements of SBN B.2.2-40: 2018	ONGOING
80.	Ensure that service providers meet the requirements of the package "Inpatient Psychiatric Care for Adults and Children", in particular, comply with the requirements of Order of the MoH of Ukraine No. 147 of 8 August 1995	ONGOING
<b>RESULTS OF MONITORING THE OBSERVANCE OF HUMAN RIGHTS IN PLACES OF DETENTION UNDER THE JURISDICTION OF THE MINISTRY OF SOCIAL POLICY OF UKRAINE</b>		
<b>The Verkhovna Rada of Ukraine shall:</b>		
81.	Ensure that the draft laws of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Introduction of Permitting Procedures and Control in the Provision of Social Services" (Reg. No. 6419 of 10 December 2021) and "On State Control over Compliance with Legislative Requirements in the Provision of Social Support" (Reg. No. 6119 of 30 September 2021) are included in the agenda	ONGOING
<b>The MSP of Ukraine shall:</b>		
82.	Bring the requirements of the Law of Ukraine "On Social Services" and other regulatory acts taking into account the judgement of the ECtHR in the case of Kaganovskyy v. Ukraine and the requirements of the Decree of the President of Ukraine No. 30/2021 of 29 January 2021 "On Some Measures to Ensure the Right of Citizens to Quality and Safe Social Services" in line with the model provisions on the following institutional social agencies: <ul style="list-style-type: none"> <li>- PNCH (CMU Resolution No. 957 of 14 December 2016)</li> <li>- CCH (CMU Resolution No. 978 of 14 December 2016)</li> <li>- Care homes for elderly people and persons with disabilities (CMU Resolution No. 772 of 2 September 2020)</li> <li>- Territorial social service centre (for social services) (CMU Resolution No. 1417 of 29 December 2009)</li> <li>- Centre for social services (CMU Resolution No. 177 of 3 March 2020)</li> </ul>	ONGOING

Number	Recommendation	Progress in implementing
83.	Improve state standards for social services, in particular the State Standard for Inpatient Care for Persons Who Have Lost the Ability to Care for Themselves or Have Not Acquired Such Ability (Order of the MSP No. 198 of 29 February 2016), the State Standard for Palliative Care (Order of the MSP No. 58 of 29 January 2016) and the statutory documents of social service providers with round-the-clock accommodation (stay) in terms of the arrangement of premises and availability of necessary equipment, including video surveillance	ONGOING
84.	Review the Minimum Standards for the Provision of Items, Materials, and Equipment to Elderly People, Disabled People and Disabled Children in Residential Institutions and Territorial Social Service Centres (for Social Services) of the Social Protection System approved by Order of the MSP No. 857 of 19 August 2015, in terms of compliance with the requirements of the current legislation in the field of social services provision and the practical needs of wards/residents	ONGOING
85.	Improve the Procedure for the Formation of, Maintenance of and Access to the Register of Social Service Providers and Recipients approved by the CMU Resolution No. 99 of 27 January 2021, in terms of the functioning of and access to the information contained in the Register of Social Service Providers and Recipients	ONGOING
86.	Take measures to review the level of remuneration of employees of social service institutions, including those with round-the-clock accommodation (stay)	NOT IMPLEMENTED
87.	Develop and approve the procedure for detecting and registering cases of bodily injuries during the arrival and residence (stay) of social service recipients at social service providers with round-the-clock accommodation (stay), forms of registers for such injuries, the procedure for reporting them to the relevant law enforcement agencies and healthcare facilities, a questionnaire on the presence of bodily injuries and the procedure for recording their detection	ONGOING
88.	Develop and approve a regulatory act on the organisation of deinstitutionalisation of residential institutions for the elderly and persons with disabilities, including those with intellectual and mental disorders Develop a system of social services for the elderly and people with disabilities, including those with intellectual and mental disorders, in the territorial communities where they live	ONGOING
89.	Develop methodological recommendations for the introduction of a mechanism for monitoring the notification of guardians of their wards' consent to hospitalisation in a mental health facility	NOT IMPLEMENTED
90.	Provide clarifications to institutions on the implementation of the CPT recommendations provided in the Report on the Visits to Psycho-Neurological Institutions in 2019, as well as the UN Human Rights Monitoring Mission in Ukraine, provided in the information note on the results of monitoring the human rights situation of persons with intellectual and psychosocial disabilities in Ukraine of 1 February 2022	NOT IMPLEMENTED
<b>The NSSU shall:</b>		
91.	Constantly monitor the compliance of social service providers, including those with round-the-clock accommodation (stay), with the requirements of state standards of social services	IMPLEMENTED
92.	Provide organisational and methodological support to social service providers, including those with round-the-clock accommodation (stay), in providing social support and social services	NOT IMPLEMENTED
93.	Ensure control over the availability of contracts with healthcare facilities or licences for medical practice for social service providers with round-the-clock accommodation (stay)	ONGOING

Number	Recommendation	Progress in implementing
94.	Organise the capacity building of employees of the NSSU territorial bodies and their methodological support in compliance with state standards of social services, in terms of observance of the rights of social service recipients who are in residential care facilities with round-the-clock accommodation (stay)	IMPLEMENTED
95.	Together with the State Service of Ukraine for Food Safety and Consumer Protection, monitor compliance by social service providers with sanitary and hygiene and anti-epidemic requirements, as well as requirements for food safety and quality	ONGOING
<b>The State Service of Ukraine for Food Safety and Consumer Protection shall:</b>		
96.	Together with the NSSU, monitor compliance by social service providers with sanitary and hygiene and anti-epidemic requirements, as well as requirements for food safety and quality	NOT IMPLEMENTED
<b>Oblast and Kyiv City Military Administrations shall:</b>		
97.	Ensure that social service providers with round-the-clock accommodation (stay), including residential institutions and centres, obtain licences for economic activities in medical practice	ONGOING
98.	Take measures to bring the activities of social service providers with round-the-clock accommodation (stay) in line with the Criteria for the activities of social service providers approved by CMU Resolution No. 185 of 3 March 2020, in particular, to organise barrier-free space in the premises of social service providers with round-the-clock accommodation (stay) following the requirements of SBN B.2.2-40:2018, state standards of social services and statutory documents of social service providers with round-the-clock accommodation (stay)	ONGOING
99.	Take measures to provide medical care to residents/wards, including signing a declaration by all wards and legal representatives on the choice of a doctor who provides primary health care	ONGOING
100.	Ensure control over the cooperation of social service providers with healthcare institutions, in particular in terms of providing primary and specialised medical care to wards/residents	ONGOING
101.	Monitor the organisation of safe food, the quality of social services, the organisation of medical care for wards, sanitary and hygienic, anti-epidemic (preventive) and fire protection measures	ONGOING
102.	Strengthen control over the quality of the organisation and conduct of examinations: of wards – by the medical and social expert commission, – and of children – by the medical advisory commission, – to establish their disability and provide them with individual rehabilitation programmes in accordance with the law	ONGOING
103.	Ensure the implementation of the measures specified in individual rehabilitation programmes for children and persons with disabilities, in particular, to organise the provision of rehabilitation measures and orthopaedic footwear	ONGOING
104.	Ensure that social service institutions comply with the Methodological Recommendations on the Organisation of Occupational Therapy for the Elderly, Persons with Disabilities, and Children with Disabilities in Institutions/Facilities of the Social Protection System approved by Order of the MSP No. 1778 of 26 November 2018	ONGOING
105.	Establish cooperation with free legal aid centres	ONGOING

Number	Recommendation	Progress in implementing
106.	To ensure that providers of social services with round-the-clock accommodation (stay) place information on the rights of persons with disabilities, telephone numbers of hotlines, officials, including the Commissioner and the Centre for Free Legal Aid, to whom persons can apply, in an accessible place and form	ONGOING
<b>The Kyiv OMA shall:</b>		
107.	Bring the name of the municipal institution “Social Service Centre for Pensioners and Disabled Persons of Tashan Village Council and Studenyky Village Council of Boryspil Raion” in line with the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine” No. 2249-VIII of 19 December 2017 by replacing the word “disabled” with the words “person with disabilities” in the name of the institutions and their statutory/constituent documents	ONGOING
<b>The Coordination Centre for Legal Aid shall:</b>		
108.	Take organisational measures to ensure control over the proper provision of free legal aid to persons in social protection institutions	NOT IMPLEMENTED

**SPECIAL REPORT OF  
THE UKRAINIAN PARLIAMENT COMMISSIONER  
FOR HUMAN RIGHTS  
On Prevention of Torture and Other Cruel, Inhuman or  
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