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**Response of the Ukrainian Government
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Ukraine**

from 24 November to 6 December 2002

The Ukrainian Government has agreed to the publication of the CPT's report on its visit to Ukraine in November/December 2002 (see CPT/Inf (2004) 34) and of its response. The response, translated in English by the Ukrainian authorities, is set out in this document.

Strasbourg, 1 December 2004

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**REPORT ON THE ACTION TAKING UPON THE CPT's
RECOMMENDATIONS AND REMARKS SET OUT IN THE REPORT
TO THE UKRAINIAN GOVERNMENT
ON THE VISIT OF THE CPT TO UKRAINE
FROM 24 NOVEMBER TO 6 DECEMBER 2002**

The report to the Ukrainian government on the visit to Ukraine carried out by the European Committee for the prevention of torture from 24 November to 6 December 2002 has been carefully studied by the State department for execution of punishments, the Ministry of Interior, the Ministry of Public Health and the Ministry of Labour and Social Policy, State Border Guard Service of Ukraine.

On execution of the recommendations stated in the above-mentioned Report, the complex of organizational and practical measures has been elaborated and is carried out to eliminate the defects revealed. The State department for execution of punishments of Ukraine has already given the preliminary information on some recommendations and remarks stated by the CPT's members referred to in this Report.

A. Establishments under the authority of the Ministry of Interior

(to paragraph 8)

When the CPT delegation visited Ukraine, the work of the police detention centers (ITT) was never stopped and the arrested persons were transferred from ITT to the remand prisons (SIZO), as well as other institutions, and back in accordance with the schedule. For example, on 3.12.2003 two arrested persons (Barna Y.M. and Kral V.F.) were transferred from the Uzhgorod ITT back to the Khust ITT as they were initially prescribed to the last one. Such transfer was caused not by the possibility of their meeting with the CPT delegation in Uzhgorod but by the fact of finishing investigation measures related to them.

The Ministry of Internal Affairs of Ukraine informed once more the leaders of its regional departments about the provisions of the corresponding European Convention in particular concerning the prohibition of any psychological pressure (intimidation) in the eve of the CPT delegation's visit.

(to paragraphs 9, 36 and 37)

In order to liquidate the faults which have been revealed by the CPT delegation concerning the conditions for detained persons in the administrative detention rooms of the militia duty units, the leaders of the Ministry of Internal Affairs of Ukraine and its regional departments carry out regular supervision over the order and legality of detention, registration and keeping the detained persons in the above mentioned rooms. The terms and conditions of their detention there are strictly controlled in accordance with the corresponding legislative and normative acts.

For the purpose of implementation of the CPT recommendations the corresponding decisions were made: № 1/6-4367 of 4.08.2003 (on making the commission checks and examinations of all the administrative detention rooms of the militia duty units) and № 11471/Гс (on reconstruction of the administrative detention rooms of the militia duty units in accordance with the European standards).

Slight repair and reconstruction of almost all the administrative detention rooms of the militia duty units including the Kyiv and Maliniv district departments of the Odessa region department of the Ministry of Internal Affairs of Ukraine are being carried out. Measures are being carried out in order to make water, sunlight and fresh air supply to such rooms, as well as WC in all the rooms and separate shower-rooms.

(to paragraph 13)

Sometimes the terms of keeping the arrested persons at the ITTs are prolonged because the SIZOs are overcrowded and cannot receive such persons from ITTs. That is why some persons are still kept at ITTs after the term of keeping them there is over in accordance with the corresponding normative acts.

Some arrested persons were kept at the Khust ITT (Zakarpatska Region) more than 48 days as the court had made the corresponding decision because the trials were postponed.

(to paragraph 15)

In accordance with article 11 of the Law on Militia of Ukraine the militia officers have the right to detain those persons who are suspected in vagrancy and after receiving the prosecutor's sanction to keep them up to 30 days at the corresponding premises. We think that it does not contradict the article 29 of the Constitution of Ukraine as it is the administrative detention and not the arrest and keeping the persons suspected in committing crimes.

(to paragraph 16)

Persons who violate the rules of the narcotic and psychotropic substances turnover are detained up to 3 hours in order to make the administrative offence protocol in accordance with article 263 of the Administrative Code of Ukraine. If it is necessary to identify such persons, to make medical examinations, to clear up the circumstances of obtaining the narcotic and psychotropic substances by them, as well as to carry out forensic expertise, they are detained up to 3 days. No measures envisaged by the Criminal Procedural Code of Ukraine are carried out concerning such persons.

(to paragraphs 11, 18, 19, 22 and 180)

The leadership of the Ministry of Internal Affairs of Ukraine has made the monitoring of the reasons of violating the human rights and legality during the interrogation of the persons suspected in committing crimes. One of the factors of abuse of power by the detective officers of the operative militia units is their wrong understanding of the crime disclosure rate as the main criteria of the efficiency of their work. That is why some officers try to achieve the high crime disclosure rate by any means.

In order to avoid such negative phenomena the Ministry of Internal Affairs of Ukraine works out new approaches to evaluate the work of the internal affairs bodies. The main criteria of the efficiency of the militia work would be the opinion of the population in particular communities. It is supposed that it would considerably decrease the risk of violating the legality and constitutional rights of the citizens by the law enforcement officers.

Besides, the complex of the organizational and practical measures aimed at prevention of illegal deeds concerning the suspected persons in particular the ungrounded detention for committing administrative offences, refusal to provide the possibility to obtain the qualified legal and medical assistance or to inform the relatives about the fact of their detention.

Special attention is paid to prevention of facts of physical or psychological pressure on the detained persons. Among other measures the leaders of the operative militia units are obliged to carry out regular commission inspection of the service premises in order to reveal the objects, which could be used as means for illegal methods of interrogation. The internal affairs officers are persuaded to have intolerance to the facts of violence against the suspected persons. The corporate responsibility is envisaged in case of revealing such facts of violence.

(to paragraphs 21 and 182)

On 21.05.2001 the board of the Ministry of Internal Affairs forwarded its statement to all the militia officers of Ukraine asking them to follow the rule of law and human rights respect concerning the detained persons.

On 26.09.2003 the Minister of Internal Affairs of Ukraine M.V. Bilokon made one more statement, which was aimed at obeying the laws of Ukraine and human rights respect by the militia officers.

(to paragraph 25)

In accordance with the Order № 743 of 28.08.2001 of the Ministry of Internal Affairs of Ukraine, during 2001-2002 a pilot project on using high technologies in the militia officers recruitment was implemented on the basis of the Kyiv, L'viv, Dnipropetrovs'k and Crimean units of the Main Department on Combating Organized Crime and State Guard Department of the Ministry of Internal Affairs of Ukraine with the participation of the National Academy of Internal Affairs of Ukraine and Lviv Institute of Internal Affairs of Ukraine. For that purpose the special computer equipment "Polygraph" was used in order to make efficient professional and psychological selection of the candidates (on their consent) to be the militia officers in particular to take part in the peace-keeping missions.

(to paragraphs 26, 31 and 46)

In accordance with the Instruction on the order of medical, sanitation and anti-epidemiological activities in the ITTs all the arrested persons who are transferred to the ITTs are always asked by the ITTs' officers on duty if they have any health problems in order to identify those who need urgent medical aid. Ambulance is immediately called if such persons have the corresponding health problems.

The results of the above mentioned inquiry, arrested persons' complaints and medical aid provided to those who need it are described in the register-book for primary examination and medical aid provided to the arrested persons who are prescribed to the corresponding ITT.

In the Kyiv ITT such primary examination is carried out only by the medical officer (doctor's assistant). Soon such medical officer would be in the staff of the Ivano-Frankivsk ITT.

(to paragraphs 11, 27, 28, 32 and 183)

Any investigator or interrogation body may arrest the person suspected in committing the crime, which is punishable by deprivation of liberty, only in the following cases:

1. if such person is detained during or just after committing the crime;
2. if witnesses, including victims, indicate directly such suspected person;
3. if such suspected person has clear tracks of crime on his/her body or clothes, as well as in his/her place of residence.

If other reasons for suspecting the person in committing the crime are known, he/she may be arrested only if he/she tries to escape, or has no permanent place of residence, or he/she is not identified.

All the cases of detention of such suspected persons are documented by the interrogation bodies in the corresponding protocols with indication of the grounds, reasons, date, hour and place of detention, date and hour of making such protocol, explanation of the suspected person, informing the last about his/her right to consult the lawyer since the moment of detention. Such protocol is signed by the corresponding officer and the suspected person.

The copy of the protocol is immediately given to the suspected person with the list of his/her rights and duties. Such copy is also forwarded to the prosecutor. If the last requests the materials, which constitute the grounds for detention, they must be provided to the prosecutor.

The fact of detention must be immediately informed by the interrogation body to one of the suspected person's relatives. During 72 hours after detention the interrogation body must:

1. release the detainee if no grounds for his/her detention are confirmed, or the mentioned term of the detention is over, or the detention was made without following the demands envisaged by the article 21 of the Criminal Procedural Code of Ukraine;
2. release the detainee if other mean of restriction (*for example bail*) is chosen;
3. transfer the detainee to the court in order the last decides to keep him/her under arrest during further investigation.

The chief of the detention institution must immediately forward to the court any detainee's complaint concerning his/her detention. Such complaint must be considered by the court at the same time with the materials provided by the interrogation body concerning further keeping such person under arrest during the pretrial investigation. If the detainee's complaint is received by the court after the last makes the decision concerning further keeping such person under arrest, his/her complaint must be considered during 3 days after receiving it by the court. If no corresponding materials are provided to the court by the interrogation body or if the detainee's complaint is received by the court after 72 hours of his/her detention the complaint must be considered during 5 days after receiving it by the court.

The detainee's complaint must be considered in accordance with the demands envisaged by article 165.2 of the Criminal Procedural Code of Ukraine. As a result of the court consideration of the detainee's complaint the corresponding statement must be made by the court, namely if the detention is legal or not. The copy of such statement is forwarded to the prosecutor, the interrogation body, the detainee and the chief of the detention institution.

During 7 days after such statement is made by the court the prosecutor, the detainee, or his/her lawyer, or legal representative may appeal to the higher court. Such appeal does not stop the fulfillment of the statement made by the court.

The person suspected in committing crime cannot be detained for more than 72 hours. If no court statement concerning further keeping the suspected person under arrest is received by the detention institution before the above mentioned term is over or the court statement concerning the release of such person is received by the detention institution, the chief of the last releases him/her, makes the corresponding protocol and forwards it to the officer or body, which carried out the detention of the suspected person.

(to paragraphs 29 and 30)

In accordance with articles 43 and 43.1 of the Criminal Procedural Code of Ukraine suspected and accused persons have the right to consult the lawyer/defense counsel and to meet the last before the first interrogation.

The lawyer/defense counsel is allowed to take part in the consideration of the case at any stage of the investigation. Close relatives, tutors and trustees may take part in the consideration of the case as the accused person's counsels for the defense from the moment of providing the materials of the pretrial investigation to the accused person for familiarization. In those cases when participation of the defense counsel is obligatory in accordance with the article 45 of the Criminal Procedural Code of Ukraine close relatives, tutors and trustees may take part in the consideration of the case as the accused person's defense counsel only together with the lawyer or such defense counsel, who in accordance with the law has the right to provide legal assistance personally or on behalf of the legal person.

In order to allow the defense counsel to take part in the consideration of the case during interrogation, investigation or trial the interrogator, investigator, prosecutor or judge makes the corresponding statement and the court makes the corresponding approval.

The participation of the defense counsel during interrogation, investigation or trial (court of the first instance) is obligatory in the framework of the following criminal cases:

1. when suspected or accused persons are younger than 18 - since the moment of acknowledging them as suspected or accused persons;
2. when suspected or accused persons have some physical or psychiatric problems (dumb, deaf, blind etc.), which prevent them to defend himself/herself without assistance - since the moment of acknowledging them as suspected or accused persons;
3. when suspected or accused persons do not know the language, which is used during the proceedings - since the moment of acknowledging them as suspected or accused persons;
4. when the article's sanction envisages the lifetime imprisonment - since the moment of acknowledging them as suspected or accused persons;
5. when the case is related to forcing the person to pass the corresponding medical treatment - since the moment of revealing psychiatric disease;
6. when the case is related to forcing the teenager to study at the special educational institution - since the moment of his/her first interrogation or since the moment of allocation him/her into the special juvenile detention centre.

In the appeal court the participation of the defense counsel in the framework of the cases, which are mentioned in the part 1 of the above mentioned article of the Criminal Procedural Code of Ukraine, is obligatory only if it is considered to engrave the situation of the sentenced or justified (released) person.

Suspected, accused person or defendant has the right at any period of the investigation to refuse the invited or appointed defense counsel. Refusal is allowed only on initiative of the suspected, accused person or defendant and does not deprive such person the right to invite the same or another defense counsel at further stages of the proceedings.

Upon the above mentioned refusal the interrogator or investigator makes the corresponding protocol, which describes the reasons of such refusal concerning the defense counsel, and the court makes the corresponding provision in the protocol of the trial. Documentation of such refusal or rejection is made by the interrogator, investigator or judge through the corresponding statement, and the court makes the corresponding approval.

Refusal to the defence counsel in the above mentioned cases may be approved only if the suspected, accused or justified person or defendant explains the grounded reasons for such refusal. In such case defense counsel is changed by another one in accordance with the part 4 of that article.

After the approval of the refusal or rejection concerning the defence counsel the interrogator, investigator, judge or court informs the suspected or accused person, or defendant about his/her right to invite another defense counsel. At the stage of investigation not less than 24 hours and at the stage of trial not less than 72 hours are given to such persons for inviting another defence counsel. If within the mentioned term suspected or accused person, or defendant, or justified person does not invite another defence counsel, an interrogator, investigator, judge or court may appoint the defence counsel.

Change of the defence counsel by another one, except cases envisaged by article 61 of the Criminal Procedural Code of Ukraine, may be carried out only on request or agreement of the suspected or accused person, or defendant.

Change of the defense counsel by another one may be carried out at any stage of the proceedings, but the procedural acts carried out with participation of the previous defence counsel are not repeated after his/her change.

The defence counsel is invited by the suspected, or accused, or convicted person, or defendant, or their legal representatives, or by other persons on request or agreement of the suspected, or accused, or convicted person, or defendant. Interrogator, investigator or court are obliged to provide the detained or arrested person the assistance in establishing contacts with the defence counsel or other persons who are chosen by the detained or arrested person.

Suspected, accused, defendant or convicted person has a right to invite several defence counsels.

The interrogator, investigator or court may appoint any defence counsel through a Lawyers Bureau in accordance with the current legislation. Request of the interrogator, investigator or court on appointment the defence counsel may not be refused by the state Lawyers Bureau.

The defence counsel is appointed in the following cases:

1. if in accordance with the first and second part of the article 45 of the Criminal Procedural Code of Ukraine the participation of the defence counsel is compulsory, and the suspected or accused person, or defendant does not want or can not invite the defence counsel;
2. if the suspected or accused person, or defendant can not afford the defence counsel because of the lack of money or because of other reasons.

If it is necessary to conduct urgent investigative or other procedural measures with participation of the defence counsel, and suspected or accused person was not successful in inviting the chosen defence counsel in time, the interrogator or investigator makes the corresponding statement and has the right to appoint any temporary defence counsel before the chosen defence counsel appears.

If no urgent investigative or other procedural measures with participation of the defence counsel are needed, and appearance of the defence counsel, who is chosen by the suspected person, is impossible within 24 hours, and appearance of the defence counsel, chosen by the convicted person or defendant, is impossible within 72 hours, the interrogator, investigator or court have the right to propose to the suspected or accused person, or defendant to invite another defence counsel. If within 24 hours after such proposal another defence counsel does not appear to participate in such measures, and if during that term the suspected or accused person, or defendant does not invite one more defence counsel the interrogator, investigator or judge appoints any defence counsel through the corresponding statement, and the court appoint any defence counsel through the corresponding approval.

According to article 29 of the Constitution of Ukraine every arrested or detained person is immediately informed about the reasons of the arrest or detention and his/her rights and from the moment of the arrest or detention he/she is given the possibility to defend himself/herself personally and use legal assistance of a defence council.

The fact of the arrest or detention should be immediately informed to the corresponding person's relatives.

According to article 59 of the Constitution of Ukraine every person has the right to receive legal assistance. In cases envisaged by the legislation such assistance is provided free of charge. Every person is free in choosing his/her defence adviser. The Bar is created in order to guarantee such right to defence from accusation and to provide legal assistance to people during the trial and consideration of the cases by other state bodies in Ukraine.

Article 47 of the Criminal Procedural Code of Ukraine stipulates that if the defendant, suspected or accused person wants to invite the defence council and because of the lack of costs or other objective reasons can not do it the interrogator, investigator or court may appoint any defence council through a Lawyers Bureau. Their request may not be refused by Heads of Lawyers Bureaus. According to article 5 of the Law of Ukraine "On militia" the militia bodies guarantee right on legal defence and other rights of the detained or arrested persons who are suspected in crime committing.

In accordance with the legislation Heads of the Lawyers Bureaus guarantee the participation of the defence counsel in the proceedings taking into consideration the territorial principle. But in practice that legislative provision is poorly guaranteed.

Defence counsels refuse to work as appointed defence counsels because the accused persons don't pay for their service that causes long process of appointment another one. Investigators' statements on appointing the defence counsels are forwarded to the Lawyers Bureau but as a rule are not considered there.

The reason of the above mentioned problem is that the responsibility for the appointed defence counsel's refusal to take part in the consideration of the case is not envisaged. In practice the corresponding state authorities do not control such activities. So, they do not guarantee to the citizens their constitutional right for defence. On our opinion, it is necessary to work out the mechanism, which would guarantee the participation of defence counsels in the criminal process and envisage their responsibility and the responsibility of the Heads of Lawyers Bureaus for evasion of the fulfilment of their duties.

Besides, in the majority of the districts' administrative centres of our country there are no lawyers associations at all. So, lawyers and advocates have only private practice there. And the article 47 of the Criminal Procedural Code of Ukraine does not envisage involvement of the private advocates and lawyers into the above mentioned activities.

That is why in practice the investigators are obliged to be responsible for implementation of the right for defence in case of detention or accusation of the suspected persons. At the same time they have no real instrument of their influence on guaranteeing that right to the citizens.

(to paragraphs 20, 34)

The Ministry of Internal Affairs of Ukraine does not make Orders or recommendations concerning tactics of interrogating the suspected or accused persons. The internal affairs officers carry out the above mentioned investigative acts in accordance with Ukrainian legislation. At the same time methodical recommendations on different issues of carrying out such investigative acts were published several times.

Besides, the CPT experts were given the Ukrainian manual "Interrogation tactics" (authors: V.Bakhin and V.Veselskyi) on methods of carrying out such investigative acts.

(to paragraphs 33)

In accordance with article 254 of the Administrative Code of Ukraine during the detention of persons for committing administrative offences the relevant officers make the corresponding protocols. On the grounds of article 256 of the Administrative Code of Ukraine the offender is explained his/her rights and responsibilities, which are clearly defined in article 268 of the Administrative Code of Ukraine. The corresponding note is made in the protocol concerning the explanation of such rights and responsibilities.

(to paragraph 35)

In accordance with the Regulation on activities of the detention centres of internal affairs (ITTs), the detained and arrested persons are received by the officers on duty 24 hours and 7 days a week. Officer on duty must check the grounds for prescribing such persons to the relevant ITT, inquire them and check if their answers correspond to the provided protocols of detention and other available documents, as well as include the corresponding information about the detained and arrested persons into the Register-book of the ITT.

(to paragraphs 39 and 185)

In accordance with the CPT recommendations concerning the necessity to improve the conditions of keeping the detained and arrested persons at the internal affairs bodies the Ministry of Internal Affairs of Ukraine together with the local authorities of all the regions of our country have elaborated the corresponding programs for improving the above mentioned conditions in accordance with the European standards.

More than 30 ITTs have been repaired and 52 ITTs are being repaired in Ukraine. In the cities of Rivno, Kharkiv and Dnipropetrovs'k new ITTs have been constructed in accordance with the European standards. The Kyiv city ITT is being radically reconstructed.

The state budget of Ukraine for 2004 has envisaged 100% of costs, which are necessary for feeding (catering) of the detained and suspected persons. Besides, 39 million hryvnas are envisaged for the ITTs' repair and reconstruction needs.

In particular the budget financing of the Ministry of Internal Affairs of Ukraine for 2002 constituted the sum, which was 415.7 million hryvnas more than for 2001. But that additional money was envisaged for expenses related to the internal affairs officers' social needs and 100% salary increase in accordance with the Decree № 771 of 31/08/2001 of the President of Ukraine. Besides, in 2002 the Ministry of Internal Affairs paid all its taxes and debts for using communication channels, as well as purchased the corresponding equipment for making passports for the citizens of Ukraine.

(to paragraph 40)

In accordance with the CPT recommendations concerning the necessity to improve the conditions of keeping the detained and arrested persons at the Kyiv city ITT the last was closed on 17.10.2003 for making its radical repair. The water supply, heating and sewer systems have been completely changed. Jalousies have been taken away from all the cells' windows. Now all the windows are almost twice bigger. There are show-rooms in each floor now. The exercise yard, the room for receiving visits and the room for receiving parcels are being constructed in that ITT. Besides, the complete reconstruction of the room for preliminary examination of the detained and arrested persons who are transferred to that ITT is being made. Individual beds and toilets are available now in all the cells. Some additional equipment has been provided. Conditions of keeping people in custody would be in accordance with the European standards since March of 2004.

(to paragraph 41)

The Uzhhorod ITT of the Zakarpatska region is located in the premises of SIZO № 9 of the State Department of Execution of Punishment of Ukraine. No exercise yards are envisaged there for the detained and arrested persons who are prescribed to that ITT. Nowadays the Head of SIZO № 9 looks for the territory for such purposes.

Because of the insufficient state financing of the internal affairs bodies in 2002 in particular for the purposes of feeding (catering) the detained and arrested persons (78% of the necessary sum) meals were served for them three times a day only at 50% of ITTs, and at other ITTs meals were served one or two times a day. That food was supplemented with the food parcels from the detained and arrested persons' relatives, which in that situation were received without limitation.

As it was mentioned before (see paragraph 39) the state budget of Ukraine for 2004 envisages for the Ministry of Internal Affairs of Ukraine 100% of the necessary costs for the purposes of feeding (catering) the detained and arrested persons.

(to paragraph 42)

Nowadays 84.5% of all the ITTs are equipped with exercise yards and the detained persons have the right on daily exercises. The territories of the existing ITTs are being reconstructed and re-planned, and the repair activities and necessary materials supply for the needs of the detained and arrested persons cause considerable expenses.

(to paragraph 43)

The short-term slight overcrowding at the Mukachevo and Khust ITTs (Zakarpatska region) in 2002 was caused by the temporary break in transfer of the arrested persons by railway to the Uzhhorod SIZO № 9 from those ITTs. Only sentenced persons were transferred to Uzhhorod at that period.

(to paragraphs 44 and 45)

As it was mentioned before (see paragraph 39), the repair and reconstruction of several ITTs is being made including the Zhytomyr ITT where each cell has already its own toilet, as well as enough crockery and bedding for all the detainees. Jalousies have been taken away from the cells' windows. There are two exercise yards at that ITT. The same repair and reconstruction works have been carried out at the Odessa ITT.

Besides, with the purpose of proper material and technical supply of the ITTs the Ministry of Internal Affairs of Ukraine has worked out the Program on their improvement for the period 2003-2004, which envisages a number of organizational and practical measures on implementation of the CPT recommendations including the construction of new ITTs, radical reconstruction of all the ITTs in the regional administrative centres and other cities and towns. Since 10.12.2003, 64 ITTs have been closed for the repair and reconstruction activities.

(to paragraph 47)

Changes and amendments to article 9 and article 12 of the Law of Ukraine “On preliminary detention” were made by the Law of Ukraine “On introduction of changes to some legislative acts of Ukraine concerning functioning of the institutions and establishments of the execution of punishment” of 6.02.2003. Since the adoption of this law the detained and arrested persons receive parcels without weight limitations and meeting with relatives are prolonged from 2 till 4 hours.

During reconstruction of the ITTs rooms for visits where meeting of detained persons with relatives are established in obligatory manner. Besides TV-sets are established in the cells.

(to paragraph 48)

In the Ivano-Frankivsk special detention centre for those, who are detained for vagrancy, lavatories in the cells are fenced by a barrier; the disinfecting room and the shower room already function. The detained and arrested persons have their daily outside exercises.

On the grounds of CPT report on results of their experts' visit to Ukraine in 2002 the Ministry of Internal Affairs of Ukraine has made the Order № 650 of 11.11.2003 devoted to the liquidation of the corresponding faults. All the Heads of the Main Departments in the Autonomous Republic of Crimea, the city of Kyiv and Kyiv region, as well as regional Departments and Departments on transport of the Ministry of Internal Affairs of Ukraine have been informed about the demands related to the above mentioned Order.

The leadership of the Ministry of Internal Affairs of Ukraine constantly controls the activities in that sphere.

B. Establishments under the authority of the State department for execution of punishments of Ukraine

The report to the Ukrainian government on the visit to Ukraine carried out by the European Committee for the prevention of torture from 24 November to 6 December 2002 was carefully worked through in the State Department. The operative meeting of the Department's direction and the expanded meetings of the Regional Administrations' directions and Administration of the Department in the Autonomous republic of Crimea were held in order to organize the work and to take urgent measures on execution of recommendations and remarks of the CPT. The appropriate plans were developed in Zhytomyr and Odessa Regions concerning the elimination of the revealed deficiencies and the improvement of the penitentiary establishments' activity. The performance of these plans is monthly considered at the operative meetings of the Regional Administrations' directions.

The course of realizations of the CPT's recommendations is on the constant control of both the Ukrainian Government and the Department's direction.

We hereby inform that some organizational and practical measures have been already taken, and those demanding significant financial expenses or long time are in stage of realization.

(to paragraph 85)

Vagueness at the legislative level regarding the time limit for court hearing of criminal cases enables the practice of holding in pre-trial establishment many persons who are under investigation for a long time. This fact is the main reason for their overcrowding.

In 2003, the Department for the Execution of Punishments of Ukraine addressed the General Prosecutor's Office of Ukraine, the Supreme Court of Ukraine and other relevant institutes which are interested in information about the overcrowding of pre-trial establishments and requested their assistance in order to solve this problem by means of accelerating court proceedings and more careful access to each case of detention and imprisonment cases in the courts. Moreover, instructions were sent to the regional divisions of the Department concerning increased cooperation with the judicial and prosecutor's bodies in relation to these issues. In order to decrease overcrowding, pre-trial units were set up at correctional colonies, which hold inmates whose sentences have not yet come into legal force. The above-mentioned measures enabled to decrease the number of prisoners held in pre-trial establishment by 4,500 persons last year.

(to paragraph 86)

With the purpose of modernization of penal establishments, abounding by Ukrainian authorities together with Government of Swiss Confederation, within the framework of manual project "Establishment-model" has made the reconstruction of penal establishment № 35 in Bila Tserkva. In this establishment a large capacity dormitories are reconditioned under small living units. Their filling is diminished twice.

Such accommodation arrangements made staff control more effective. It also gives opportunity to prevent spreading of criminal subculture and maintenance of the cohesion of criminal organizations. The additional apartments also were created out of living units where prisoners can spend a part of the day engaged in purposeful activities of varied nature outside their living units.

The Department developed the program of a similar reconstruction of all penal establishments by the example of this establishment. Realization of this program has been already started. The program of the implementation is foreseen for the period of 2004-2011, taking into account the considerable cost of these works.

(to paragraph 87)

In order to improve food and material conditions of prisoners, the Collegium of the Department ratified the program for 2001-2005 years for improving food and material conditions and using them. One of the main directions of the program is the increase of agricultural production made by work of prisoners. The costs from the State Budget of Ukraine for improving food conditions to prisoners are constantly increasing. In current year the charges from the State Budget to improve the standard of food for prisoners suffering from tuberculosis were increased. This will allow providing prisoners with food that is adequate in terms of quantity and quality in full.

(to paragraphs 88, 120)

In order to provide prisoners with workplaces, the proper business plans were developed by all penitentiary establishments. Realization of these plans allowed providing over 82 thousands of prisoners with work in 2003 and it has been made of production over 335,5 millions hrn.

The Department initiates some changes to the laws of Ukraine „On employment of population” and „On local State Administrations”, in part of including to the Government and territorial programs of employment of population some points providing prisoners with job. The local State administrations are obliged to create conditions for employment of prisoners.

The Department mutually with the organs of local State Administrations organized the development of regional programs that allowed the enterprises of the penitentiary system to get orders for their local necessities. With the purpose of providing remand prisoners with job in pre-trial establishments production workshops were created within the limits of their territories. Convict labor is paid according to tariff rates that run in the national economy.

In 2003 the production the workshops of pre-trial institutions put out and provided services by 20,5 percents more than in 2002 it's exactly 2543 thousand hryvnas. That allowed the increasing the amount expenses directed to the improvement of prisoners maintenance. At this time the measures have been taken in order to the increase production capacities of workshops and creation of new workplaces.

In order to increase efficiency of the process of correction of prisoners, the programs of the differential influence on prisoners have been introduced and implemented by the State Department. They are aimed at getting education, working specialties, aesthetic education, instilling the healthy way of living and others.

The Statute on organization, terms of studies and receipts of base and complete universal secondary education by prisoners, in general educational establishments in penal institutions had been prepared and given out. That was done by the State Department for the methodical providing of organization of general studies in close collaboration with Ministry of education and science of Ukraine.

At pre-trial establishment № 21 in Odessa sport ground with the purpose of reintegration of minor prisoners in society was built. During 2003 specialists of regional center of social services for the young people of Odessa also conducted the proper psychological work with minors.

At the beginning of the 2003-2004 school year, some compulsory educational establishments were set to work at 109 correctional colonies, including 23 night-schools, 67 educational-consultative units. The classes at 19 penal establishments are opened with the evening form of studies, in which 8282 prisoners studied.

The Regional Administrations of the State Department and administrations of the pre-trial establishments have been taken some measures in order to create better conditions for the minor prisoners. Such measures were made for the increase of general level of persons (self-education). For the work with such category of prisoners the specialists of centers of social services for young people are engaged to get with the personnel of socially-psychological service of the pre-trial establishments (psychologists and social workers).

(to paragraph 90)

Thorough investigation of complaints concerning intimidation of prisoners and searches was made.

The State Department informed that in period from 06.03.2003 to 04.04.2003 and from 05.04.2003 to 04.05.2003, the reviews of prisoners, cells and technical examination of buildings, feeding and laundry sections also and other objects of establishment were made by personnel of SIZO № 21.

According to results of such measures, facts of beating and intimidation of prisoners were not confirmed. The Prison Administration in Odessa Region and Regional Prosecutor office have received no allegations and complaints concerning aforesaid searches and proceedings against employees which carried out searches.

(to paragraph 91)

According to CPT's report, the delegation received complaints that in April – May 2002, after evening retreat in the Odessa Correctional Colony № 14 prison staff members wearing masks appeared in sector № 3 and beat prisoners with batons in units № 11, 13 and 20. An internal inquiry was carried out into this matter and prisoners from the above-mentioned units were interviewed.

The prisoners' written explanations did not confirm that there had been cases of beating by prison staff in masks. According to the journal of injuries of prisoners kept in the establishment's medical unit (which was started on 20.01.2001), no injuries were registered in the period April - May 2002. There were no cases of reported beatings of inmates in the colony's register of information about crimes and accidents during 2001-2002. Further, an examination of the register of acceptance-handing of duty in the colony revealed that there were no cases of the use of special means against prisoners. There were no relevant statements or complaints in the register of statements and complaints, which was started on 04.01.2000 (namely records for April-May 2001 under № 55-57 and for April-May 2002 under № 98-191).

In the course of the internal inquiry, the journal of reception of prisoners by the Director of the colony was also examined and it contained no mention of complaints against illegal actions by prison staff. According to the Odessa Regional Prosecutor's Office for the supervision of the enforcement of sentences, no cases of physical or moral pressure against prisoners have been revealed.

The regional divisions of the Department perform strict on-going control over the observance of law by staff working in correctional facilities and special reaction units, with a view to ensuring that there are no cases of inhuman treatment in the course of preventive measures and recreational activity.

(to paragraph 92)

New Rules on the internal prison regulations were introduced by Decree № 275 of 25.12.2003 of the State Department for the Execution of Punishments. These Rules were officially registered at the Ministry of Justice of Ukraine under № 1277/8598 on 31.12.2003. The new Rules exclude the possibility for prisoners to carry out duties which are the competence of prison staff responsible for supervision and security in penitentiary establishments.

(to paragraph 100)

The new standards of winter clothing were developed for the experimental use with the purpose of providing the convicted persons by their belongings. After the end of the experiment, it will be provided with these clothes the convicted persons, including lifers. The question of the abolition of the sign "lifer" on their clothes is under consideration.

According to the Rules on the internal prison regulations, access to natural light in single cells (PKT), disciplinary cells (DIZO) and punishment cells (*kartzler*) should be brought into compliance with the norms which take into consideration the needs of prisoners. Artificial lighting in the cells is sufficient for prisoners to write, read and work without harm for sight. As for the conditions of prisoners serving life sentences, all Regional Prison Administrations undertake activities aimed at strengthening their social contacts, diminishing the negative psychological effects on the prisoners concerned and decreasing tension and aggression towards staff, as well as self-aggression. Medical checkups of prisoners of this category are carried out every half-year by psychiatrists. In addition, prisoners who are on prophylactic account are examined by psychiatrists monthly. Life-sentenced prisoners can ask to be received by a doctor, including a psychiatrist, during the daily checks.

With the purpose of improving prisoners' contact with the outside world, appropriate conditions for satisfying their religious needs and arranging meetings with priests have been created. Special rooms been equipped for this purpose have. Meetings are conducted upon request by prisoners with the representatives of various religious confessions.

At present, work for life-sentenced prisoners is provided inside their cells, if the cell size allows the setting of technological equipment. The question of creating separate rooms where these prisoners can work is also under consideration.

With the purpose of improving information and education work with prisoners serving life sentences and juvenile prisoners at Zhytomyr prison № 8, 32.8 thousand hryvnas were donated by charitable organizations in October 2002, with which 18 television sets, 2 video recorders, a video camera, an acoustic system, a commutation stand and other technical equipment were acquired. A TV studio was also equipped. Cable television was provided in the unit for life-sentenced prisoners, the unit for juvenile prisoners and the rooms for educational work.

(to paragraphs 102, 104, 105)

In all penitentiary establishments of Ukraine where prisoners sentenced to life imprisonment are held the practice of the systematic application of handcuffs to this category of prisoner has been abolished. Handcuffs are applied only to prisoners who represent considerable danger to staff and other when they are taken out of their cells.

Concerning the material conditions of prisoners sentenced to the prison regime of "tyurma", the provisions of the Criminal Code and Criminal Executive Code which enabled the holding of prisoners under such a regime as a type of punishment have been abolished. Such prisoners are now held on common grounds in establishments with maximum level security. Their material conditions are the same as those for the sentenced prisoners. The administration of Zhytomyr prison № 8 revised the order for the weekly transferring of prisoners sentenced to life imprisonment from one cell to another. However, the present operational situation does not permit to fully abolish this practice. If the situation in the future allows it, this practice will be abolished.

(to paragraph 106)

In accordance with article 162 of the Criminal Procedure Code of Ukraine, the organ which investigates the case is responsible for authorizing remand prisoners' meetings with their relatives and other persons. A new draft Criminal Procedure Code has already passed first reading in Parliament (Verkhovna Rada) of Ukraine.

Moreover, according to article 87 of Criminal Executive Code of Ukraine, sentenced prisoners held in pre-trial establishments are entitled to short-term visits by their relatives.

(to paragraph 112)

The problem concerning to supply of special hygiene products to female prisoners has been solved. Such products can be purchased in the establishments' shops. Those prisoners who are not in a position to pay for such items are provided with them at the expense of the establishment.

(to paragraph 116)

The administration of Odessa colony № 14 took measures to improve material conditions of sentenced prisoners. In section № 4, the additional equipment was removed from the dormitories and the number of prisoners held was brought into compliance with the norms. Moreover, in 2003 all prisoners were provided with clothes adapted to the climatic conditions.

(to paragraphs 117,130,132)

With a view to providing appropriate sanitary and hygiene conditions in the cells of Zhytomyr Prison № 8, in 2003 the heating, water supply and canalization systems were repaired. Further, prophylactic repairs of the electricity network were carried out. A checkup and repair of the shower rooms also took place. Proper heating was provided in all of the establishment's cells.

All persons held in SIZO № 21 are provided with beds and clean bed linen.

The running repairs including glazing of windows in remand prisoners' cells are conducted.

The question of planning and constructing a new building with 250 places at Odessa SIZO № 21 is being worked upon by the State Department.

In Odessa SIZO № 21, the jalousies have been removed from cell windows with a view to improving the access of natural light. All cells are equipped with windows with panes. The windows are additionally equipped with a small opening window pane.

New rules concerning the functioning of shower and laundry facilities were adopted in October 2003 ("Norms about the provision of washing and laundry services to prisoners"). On 1 January 2004, all bathrooms, including shower rooms, have been brought into conformity with the correspondent requirements. The washing of sentenced and remand prisoners, supervision of the observance of order during washing as well as cleaning and disinfection of cells, is carried out by the staff of the quartermaster's, material conditions and medical services. The washing separations are provided with such proportion: one shower net for 15 persons.

In accordance with the provisions of the Criminal Executive Code of Ukraine, the norm of living area per convicted prisoner in correctional colonies cannot be less than 3 sq. m. and in correctional centers, not less than 4 sq. m. The proper work by adduction of conditions of holding of convicted prisoners according to the current legislation norms including the creation of necessary conditions of life is constantly conducted by the officers of the State Department of Ukraine for Execution of Punishments.

(to paragraph 118)

In accordance with the requirements of the new Criminal Executive Code, which was adopted on 1 January 2004, the Department gave out new Rules of internal order of prisons which passed state registration in Ministry of Justice of Ukraine. They foresee the receipt by prisoners from 5 to 7 parcels a year. It depends on level of security in establishment. There are no restrictions on the number of parcels for prisoners subject to the minimal level of security. The restrictions on the number of parcels in penal establishments with minimal level of security were abolished by new Criminal-Executive Code. Moreover, weight of such parcels is increased from 8 to 30 kg. Their weight doesn't include clothes and medicines. Concerning convicted prisoners held in SIZOs, according to the current legislation they are allowed to 2 parcels per month (up to 30 kg each).

(to paragraph 121)

The major repairs of outdoor physical exercise yards were made in penal establishment № 8 in Zhytomyr region and Odessa SIZO № 21. These yards are equipped with proper sporting inventory. It gives the opportunity to prisoners really exert themselves physically and be engaged in sporting activities.

Such the repairs of outdoor exercise yards are nearly completed in other establishments of the criminal-executive system of Ukraine.

(to paragraph 124)

A "Programme of complex measures for the prevention of tuberculosis in penal establishments on 2002-2005" years" was ratified by the decision of the Collegium of the State Department for Execution of Punishment № 4KD/2 of 18 April 2001. This programme was ratified by Presidential Decree № 643/2001 of 20 August 2001 "On the National programme for combating tuberculosis in 2002-2005". This programme covers all questions of prophylaxis, detection and treatment of tuberculosis. The financing of the programme is provided under a separate programme line. The Department is provided with antituberculosis drugs for conducting proper treatment. The implementation of the afore-mentioned measures allowed to reduce the index of tuberculosis in penal establishments by 15% in 2003 as compared with 2002. In 2004 a project for controlling tuberculosis and HIV/AIDS, financed by the World Bank, was launched. There is a special section in it on the penitentiary system.

The question of providing continuity of tuberculosis treatment to prisoners who are transferred from SIZO to ITT is tackled by the Department jointly with the Ministries of Public Health Internal Affairs.

(to paragraph 125)

According to article 7 of the Law of Ukraine “On prevention of disease on AIDS and social defense of the population“, persons deprived of liberty are offered HIV-screening free of charge. Health care in penitentiary establishment is provided for prisoners identified as HIV-positive.

(to paragraph 126)

The procedure for the registration of injuries on new arrivals is regulated by the legal acts of the Department.

In penal establishment № 8, SIZO № 21 and other establishments of the criminal-executive system the medical screening of newly arrived prisoners is carried out in obligatory order. A medical conclusion on the state of health is noted to the personal medical file.

(to paragraph 127)

In implementation of the recommendations in paragraph 127, in penal establishment № 8 the practice of having prisoners receiving injections through the hatch of the sick bay in full view of prison staff was cancelled. Only in exceptional cases, the injections are carried out with the observance of necessary safety measures.

The question concerning the construction of separate building for mentally ill prisoners at the correctional colony № 20 in Zaporizhya Region is under consideration.

(to paragraph 128)

The organization of health care (including psychiatric treatment) for prisoners serving life sentences is provided in accordance with the principle of equivalence with other inmates. The nearest medical establishment including that of the Ministry of Public Health gives urgent health care on request. The doctors from the territorial medical establishment of the Ministry of Public Health give the advisory help on medical questions if necessary.

(to paragraph 131)

In accordance with the requirements of the Criminal Executive Code of Ukraine, prisoners placed in disciplinary cells (DIZO), punishment cells (*kartzer*) or single cells (PKT) are entitled to one hour of outdoor exercise per day. According to the legal acts of the Penitentiary Department, only prisoners undergoing disciplinary punishment in the form of placement in a single cell (PKT) have access to reading matter.

(to paragraph 133)

In accordance with part 11 of article 134 of the Criminal Executive Code of Ukraine, prisoners placed in disciplinary cells (DIZO), punishment cell (*kartzer*) or single cells (PKT) are not entitled to visits.

In accordance with the Rules on the internal regulations of penal institutions, letters addressed to prisoners who are held in disciplinary cells (DIZO) and punishment cells (*kartzer*) are given to them after they have served the disciplinary sanction. As for prisoners placed in single cells (PKT), letters are transmitted to the head of the social-psychological service against his\her signature.

(to paragraph 136)

In accordance with the article 110 of the Criminal Executive Code of Ukraine, the payment for using the rooms for short-term and long-term visits is made by the prisoners or their relatives or other persons from their personal funds. Such a payment is used for reimbursement of the expenses incurred and improvement of the material conditions in these rooms. With the increase of the level of budget financing, a proposal to revise these legal norms will be submitted.

(to paragraph 137)

With the purpose of improving conditions of direct contact during short-term visits, at Romny correctional colony № 56 and Shostka correctional colony № 66 the glass barriers separating prisoners from their visitors were removed as an experiment. If the experiment is successful, recommendations will be given to other penal establishments to this effect.

(to paragraph 138)

In accordance with the legislation, prisoners have the right to submit proposals, statements and complaints to the Human Rights Commissioner of the Parliament (*Verkhovna Rada*) of Ukraine, the public prosecutor's office, the European Court of Human Rights, the management of the establishments for the execution of punishments and their superiors, courts, other public authorities, local administrations and NGO. The proposals, statements and complaints addressed to the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the prosecutor's office and the European Court of Human Rights cannot be opened and should be sent within 24 hours, in other words they are treated as confidential.

In prison № 8 and other penitentiary establishments, every newly arrived prisoner is given a copy of the "Handbook for persons deprived of their liberty", which contains the addresses of state organizations to which prisoners can write in the case of need. The question of providing prisoners with envelopes is decided in the case of need.

(to paragraph 140)

An internal investigation was carried out at SIZO № 21 in Odessa into the systematic presence of a special squad accompanied by a muzzled dog and equipped with tear gas when cells were opened, and certain officials were punished. Only in exceptional cases, when cells holding particularly dangerous prisoners are opened at night, a member of the special squad is present in order to ensure staff safety. In 2003, there was not a single case of the use of tear gas.

(to paragraph 141)

In implementation of the recommendations made in the CPT report, constant control was established over the use of the waiting cubicles measuring approximately 2 m², with a view to ensuring that they do not hold more than one prisoner at a time. The question concerning the possibility of enlarging the cubicles is under consideration.

(to paragraph 142)

Information concerning the transportation of prisoners (material conditions, reduction of number of prisoners per compartment in railway carriage, etc.) is to be received from the Ministry of Internal Affairs of Ukraine, who has competence over this matter.

C. Establishments under the authority of the Ministry of Public Health

The report of the Council of Europe Committee to Prevent Tortures (CPT) contains a series of remarks and recommendations as to provision of psychiatric assistance to mentally ill people in Chernivtsy Oblast Psychiatric Clinic. The Department of Health at Chernivtsy Oblast State Administration was charged with examining the drawbacks identified by the CPT and taking appropriate measures to eliminate them.

According to the aforesaid Department of Health, since the CPT ended its work at Chernivtsy Oblast Psychiatric Clinic 3,755 patients have been hospitalized by this clinic. Most of them (98%) have been hospitalized in compliance with the provisions of Articles 13 and 15 of the Law of Ukraine "On psychiatric assistance". 2% of patients showed signs of severe mental disorders when hospitalized and were unable to give a conscious consent to their hospitalization. In those 2% of cases statements have been filed with the courts of law accompanied by the medical certificates issued by a commission of psychiatrists pursuant to Article 14 of the Law of Ukraine "On psychiatric assistance". In compliance with Article 25 of the Law of Ukraine "On psychiatric assistance" all the patients have been given the opportunity to exercise their right to lodge a relevant complaint with a court of law against their hospitalization by the psychiatric clinic. In 2003 there has been only one case when a court of law rejected a complaint against the forced hospitalization of a patient.

The structure and the number of beds of Chernivtsy Oblast Psychiatric Clinic have remained the same since the time when the CPT worked at the clinic.

2. Chernivtsy Oblast Clinic

a. Poor medical care

(to paragraph 148)

There are no reported cases of ill-treatment of the patients by unqualified hospital attendants, as the clinic administrations have taken measures to ensure qualified care for its patients.

b. Staff

(to paragraphs 149-151)

According to Annex 10 to the Decree of the Ministry of Health № 33 of 23.02.2000 “Interim staff standards for medical, pharmaceutical and training staff, persons working at the kitchens of psychiatric clinics (departments, wards) including childcare institutions”, Chernivtsy Oblast Psychiatric Clinic has the following staff per 680 beds:

Staff	According to Decree № 33 (number of posts)	2003 Positions occupied
Doctors	118.5	102.5
Medium medical staff	301.75	236.25
Junior medical staff	358.25	294.75
Other staff (trainers, psychologists)	11.25	7.0
Administrative and household staff	92.5	82.5
Total	882.25	723.0

In accordance with the above data, the clinic’s staff should be supplemented with doctors, medium and junior medical staff, etc. The employment of additional staff is not possible for the time being as allocations for public health are limited.

The list of medical specialists approved by the Ministry of Health does not include occupational therapists.

(to paragraph 152)

Currently at Chernivtsy Oblast Psychiatric Clinic only relevantly qualified medical staff are allowed to provide treatment and care for and look after patients with mental disorders. The clinic employs a total of 88 doctors out of whom 47 are psychiatrists. Almost all doctors are receiving relevant professional training within the terms specified by the respective decrees of the Ministry of Health of Ukraine and have access to refresher courses. 91.8% of the doctors have professional qualifications; others have certificates of expert doctors.

The psychiatric departments employ 243 nurses. 100% of them have taken refresher courses, 93.6% got their professional qualifications.

According to the Decree № 23 of the Department of Health at Chernivtsy Oblast State Administration of 26.03.2003 "On further organization of training and internship courses at local medical settings", junior medical staff get trained to start working as junior nurses.

c. Patients' living conditions

(to paragraph 153)

Patients' living conditions at Chernivtsy Oblast Psychiatric Clinic have somewhat improved in the last year. The shower room for patients has been moved to a place that is more suitable for these purposes. The clinic has been supplied with electric lamps. In 2003 partial reconstruction of the clinic started (it is planned to put into operation an independent boiler-room that will provide heating and hot water supply 24 hours a day to the whole clinic). On completion of the reconstruction drawbacks identified by the CPT will be eliminated.

(to paragraph 154)

The Department of Health at Chernivtsy Oblast State Administration has implemented the first stage of activities, namely the number of patients at Chernivtsy Oblast Psychiatric Clinic now corresponds to the number of hospital beds. In order to improve patients' living conditions, other measures are being planned, including moving the clinic to a better building which will allow to create better living conditions for patients in small wards with bedside tables for personal belongings. During the reconstruction of the clinic it is planned to upgrade the sanitary and technical system of the clinic's premises, repair the roofs, clear up and trim the clinic grounds where patients can take walks.

(to paragraph 155)

In 2002-2003 the nutrition of patients has improved. The diet has become richer in calories owing to allocation of more funds for those purposes.

It is worth noting that the funding of nutrition remains insufficient because of the bad harvest in 2003 and an increase in prices for foodstuffs.

d. Care

(to paragraph 157)

The Department of Health at Chernivtsy Oblast State Administration is regularly taking measures to improve the supply of medicaments to patients of the psychiatric clinic. Allocations for the provision of medicaments have increased as compared with 2002. In the first nine month of the current year alone, the local budget allocations for the purchase of medicaments and medical tools stood at UAH 119.7 thousand. 65% of those funds were used to purchase neuroleptic medicines (clopiclesol-anufaz, clopiclesol-depo, fluancsol-depo, moditen-depo, zoloft, depakin and other vitally important medicines).

(to paragraph 158)

The clinic was not able to furnish its intensive therapy unit with appropriate medical equipment in 2003 due to the lack of funds to purchase such equipment. The Department of Health at Chernivtsy Oblast State Administration has approved the Chernivtsy Oblast Psychiatric Clinic Development Concept for 2004 – 2011 that provides for the development of the clinic's intensive therapy unit and its furnishing with appropriate equipment.

(to paragraph 162)

Recently the clinic has introduced and is strictly observing the schedule of outside walks: the patients are supposed to spend no less than 1 hour outdoors everyday. The ground for such walks has been trimmed.

(to paragraph 166)

The recommendations of the CPT as to the psychosocial rehabilitation of patients who have to stay at the clinic for a long time are being implemented subject to the budget allocations to respective items of expenses.

Within the Chernivtsy Oblast Psychiatric Clinic Development Concept for 2004 - 2011 it is planned to carry out specific activities aimed at psychosocial and labor rehabilitation of inpatients with mental disorders during their long-term stay at the psychiatric clinic.

e. Isolation measures

If isolation is required, patients with severe mental disorders are subject to measures that are in compliance with the method guidance of the Ministry of Health of Ukraine and the Ukrainian legislation. Such measures are entered into the medical files of the patients.

f. Guarantees to mentally ill patients

Hospitalization of patients in Chernivtsy Oblast Psychiatric Clinic is performed in compliance with the Law of Ukraine “On psychiatric assistance”. All cases of hospitalization contradicting Ukrainian legislation have been eliminated and precluded. Forced hospitalization and care can be applied to patients only if a respective decision has been made by a court of law.

In accordance with Article 20 of the Law of Ukraine “On prosecutor’s office” documents of patients who stay at the clinic for a long time and need social protection are passed to the prosecutor’s office in order that the latter can arrange custody for such patients in compliance with the procedure specified by the Ukrainian legislation.

After the patients are allowed to leave the hospital, psychiatrists, junior medical staff and social workers regularly visit them at home.

(to paragraph 170)

Brochures with WHO guidelines for mental healthcare and copies of the Law of Ukraine “On psychiatric assistance” have been distributed at oblast psychiatric institutions in order that the patients can familiarize themselves with those documents.

(to paragraph 171)

Supervision over the activities of Chernivtsy Oblast Psychiatric Clinic is done in compliance with Article 30 of the Law of Ukraine “On psychiatric assistance” and other policies.

Supervision of observance and application of laws during provision of psychiatric assistance at psychiatric institutions of Ukraine, including Chernivtsy Oblast Psychiatric Clinic, is performed by the Prosecutor General and prosecutors subjugated to him in compliance with the legislation in force.

D. The Ministry of Labour and Social Policy of Ukraine

To execute the resolution of the Prime Minister of Ukraine, the Ministry of Labour and Social Policy of Ukraine considered the report of CPT and took measures to eliminate the drawbacks mentioned in it as regards the psycho-neurological institution in Pohonya, Ivano-Frankivsk region.

Taking into account the recommendation concerning the necessity of improving the heating system of the building it was reconstructed at the expense of the local budget and transferred to gas heating.

Measures also are taken to organize the residents' leisure time at the institution and to engage them in some activity (on agricultural plots and different workshops: sewing, joiners, etc. There are libraries, TVs, radio, newspapers at the disposal of the inhabitants. Nowadays the measures have being taken to improve the functioning of the sanitary equipment in the Pohonya institution.

Daily all the residents are taken for a walk in the fresh air during no less than an hour.

The Ministry of Justice of Ukraine confirmed the Common Provision for the system of psycho-neurological institutions. The relatives of the inhabitants of these boarding houses can get acquainted with this document.

The institutions under the Ministry of Labour are open to visits by representatives of different NGOs: charitable, religious, public.

The situation at the Pohonya institution will be controlled by the Main Department of Labour and Social Protection of the Population of the Ivano-Frankivs'k Region Administration.

E. State Border Guard Service of Ukraine

1. With regard to the authority decision to reduce the detention periods for foreign nations who violated the alien's legislation

The State Border Guard Service together with other state authorities of Ukraine took a number of organizational and practical measures aimed at improvement of the legislation related to persons with no status and foreigners detained for violations of the Ukrainian legislation.

To reduce the detention terms of the foreign nationals detained under aliens legislation, on October 18, 2003, the Supreme Council of Ukraine made some amendments to the article 32 of the Law of Ukraine "On the legal status of foreigners and persons with no status". According mentioned, foreigners detained under alien's legislation are to be accommodated in temporary detention centres for no longer than 6 months.

For the first time budget funds of the State Border Guard Service were allocated to equip temporary detention centres and to deport foreigners detained under aliens' legislation.

The Border Guard Service works out regulative documents on detention and deportation of foreigners and persons with no statuses who violated the legislation of Ukraine and were detained in the frontier region.

2. With regard to the training of staff responsible for guarding detainees

Inquiry into the allegations of physical ill-treatment to foreign detainees was launched. These facts were not proved. Nevertheless, staff responsible for guarding detainees in the temporary detention centre "Pavshino" and other centres have been moved to other places of service. The training in the detention and supervision of foreign nationals is being held monthly.

3. With regards to the equipment of the temporary detention centres

All cells used for the detention of foreigners which did not meet the requirements of accommodation are not being used any more. In accordance with the CPT's recommendations, the construction of new TDC and the reconstruction of existed ones have been initiated. According to the budget available, this work will be carried out during 2003-2005. On admission to the temporary detention centres, all detainees undergo medical screening and are later examined weekly. There are special registers to record this information.

Detainees held in the women and children temporary detention centre have access to outdoor exercise without time limits. Areas for exercise are provided in all the TDC.

Usually in case of a family being detained their common detention is resolved positively.

The National fund of Environment and Ecology "Carpathian Area" is responsible for supplying detainees with personal hygienic products, sufficient quantity of cleaning products to keep their cell clean and hygienic, newspapers and magazines, separate bedding.

In the temporary detention centres "Pavshino" the systems of water and heat supply were changed and a dining room is under reconstruction. Lighting is controlled twice a week. In Chop the National fund of Environment and Ecology "Carpathian Area" initiated the equipment of the women and children temporary detention centre.

4. As to the detainees safeguards

All the detainees since the outset of their detention are informed of their rights and obligations that are printed beforehand on the forms. The interpreters of the International Organization on Migration are involved in this activity.

If it is necessary all detainees with their own consent have right of the access to a lawyer at all stages of detention period.

In three days the embassies of those detained under the alien's legislation are informed of their detention. There is access to the telephone in the women and children centres to enable detainees to call their embassy or native country if they desire. The temporary detention centres that are under construction are provided with telephones. A prosecutor visits the temporary detention centres every 10 days. After their apprehension, all detainees are immediately informed of their right to acquire refugee status in Ukraine. In 2003, 318 persons submitted their applications to acquire refugee status, 278 of these applications were reviewed.

Until the end of 2005, all the temporary detention centres will meet the requirements of Ukrainian legislation and European standards.