

## **Index on Torture. Main developments in 2023**

### **Ukraine**

In 2023, the overall situation in Ukraine, including its political, economic and humanitarian aspects and efforts to combat torture, did not differ significantly from that described in the 2022 [review](#). The war with the Russian Federation continues, and a significant portion of Ukrainian territories, including areas in Donetsk, Zaporizhzhia, Luhansk, and Kherson oblasts, as well as the Autonomous Republic of Crimea, remain under occupation. The situation in these territories cannot be assessed based on the indicators established by the Index; therefore, they are not included in this review. However, Ukrainian and international human rights organizations and initiatives have been gathering information on the human rights situation, including cases of torture, in the occupied territories. As an example of such activity, the Ukraine 5 AM Coalition of human rights organizations collects and documents evidence of crimes committed by the Russian military on Ukrainian territory. In 2023, a member of the Coalition, the FREERIGHTS Human Rights Association, presented a [report](#) entitled *The Black Register: Cases of Executions, Torture, and Cruel Treatment of the Civilian Population in Temporarily Occupied Territories of Ukraine*.

### **Factors and trends in combating torture in 2023**

In 2023, as in 2022, the state continued to restrict access to public information. Restrictions imposed at the beginning of the war on access to various state registers remain in effect. This makes it more challenging to obtain relevant statistical data on the activities of government agencies for the Index.

For example, at the onset of the war, access to the register of judicial decisions became unavailable. Subsequently, while access was partly restored, in 2023 as in the previous year, certain categories of cases—especially those with potential implications for national security—were either removed from the judicial register, classified, or never included in the register at all. At the same time, there is a lack of clarity regarding the criteria used to determine whether certain information is likely to pose a security threat, and the total number of classified cases remains unknown.

#### *Registration of reports alleging torture*

According to the regulatory framework, reports alleging torture are separately registered by various law enforcement units, including police departments, subdivisions of the State Bureau of Investigation, and the Security Service of Ukraine. However, aggregate statistics of such reports are not collected or maintained, as in previous years.

Based on the statistics published by the Office of the Prosecutor General on its official [website](#), Section 1 provides general information on the number of registered criminal offenses and the outcomes of their pre-trial investigation. It is reported that the total number of criminal cases initiated under Article 127 "Torture" of the Criminal Code of Ukraine increased by 38% in 2023 compared to 2022, totaling 94 cases (compared to 68 cases in 2022). In 53 cases, the potential perpetrators were officially notified of being

suspected of committing a criminal offense under this article, and eight cases were suspended under Article 280 (grounds and procedure for suspending pre-trial investigation after notifying a person of suspicion) and Article 615 (special regime of criminal proceedings under martial law). Of all cases under the Article on torture, 38 cases were sent to court, criminal proceedings were discontinued in 24 cases, and in seven cases, the perpetrators were convicted and sentenced for the use of torture.

At the same time, statistics regarding Article 127 are also published in two other sections of the website. Section 2 is titled "Criminal proceedings pending, where the pre-trial investigation is carried out by the National Police." This section reports that the police opened 51 criminal proceedings under the Article on torture in 2023. Of these, suspects were notified in 39 cases, and 34 cases were sent to court. There is also Section 6 titled "Criminal proceedings pending, where the pre-trial investigation is carried out by the State Bureau of Investigation," which reports 31 criminal proceedings opened under the Article on torture in 2023, including seven where suspects were notified and only three sent to court.

There is an explanation for this. As noted in our [2022 report](#), Ukraine has been taking steps to harmonize its domestic legislation on combating torture with international standards, particularly those outlined in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This includes amending Article 127 of the Criminal Code of Ukraine "Torture," specifically by adding Part 3 to define the specific perpetrators of this crime. Now this article applies to officials and provides for punishment commensurate with the severity of the offense.

"The acts specified in Part One or Part Two of this article, when committed by a state representative, including a foreign state representative, are punishable by imprisonment for seven to twelve years, with deprivation of the right to hold certain positions or engage in certain activities for up to three years."

However, a review of the above statistics reveals that in most cases, citizens rather than state officials are charged under the Article on torture, and their cases are investigated by the police. In 2023, there were only 31 criminal proceedings where the suspects and accused were representatives of the state, and the investigation of these cases was entrusted to the State Bureau of Investigation. Out of these, only 3 cases were sent to court.

#### *Human rights in places of deprivation of liberty*

Information on the number of reports alleging torture and complaints from places of deprivation of liberty remains unavailable. Either no consolidated records of such reports are maintained, or if they exist, they are not made public.

On a positive note, even during the war, the National Preventive Mechanism (NPM) continues to function. In Ukraine, it has been established based on the Commissioner for Human Rights appointed by the Verkhovna Rada, operating in an "Ombudsman+" format with active involvement from the public. In 2023, the NPM continued its work and conducted visits to places of detention (with the exception of the occupied territories).

A few times, NPM representatives were denied access to certain facilities, but these were isolated incidents rather than a systematic practice. Each time, there was a prompt response from the Ombudsman. For example, an NPM team led by the Ombudsman's Representative in Transcarpathian oblast was obstructed while on a human rights [monitoring](#) mission to "Care and Nursing," a private institution for the elderly in the village of Minai, Uzhhorod District. During the visit, the institution's staff interfered with the Ombudsman's Representative and denied them access to the elderly residents. This episode caused a public outcry, eventually leading to criminal proceedings being initiated by the National Police under Article 344 of the Criminal Code of Ukraine (interference in the activities of a public servant).

The introduction of Custody Records within the National Police is also a positive development in combating torture. This area is coordinated by the Department for General Inspectorate and Human Rights of the National Police of Ukraine.

The Custody Records system includes:

- a custody officer responsible for supervision over detainee rights;
- an electronic system for recording all actions involving the detained person, replacing paper logs and minimizing the possibility of data distortion;
- a "smart" video recording system designed to avoid dead zones, prevent manual camera control, and ensure data integrity. Various devices can be used to monitor safe handling of detainees, including stationary cameras, rotary cameras, and lenses with variable focal lengths, all supporting audio recording;
- conducting interviews (distinct from procedural interrogations) with detained individuals about their treatment by police officers during apprehension, any violations of their rights, their health status, and checking for any indications of arbitrary use of force.

The ongoing war continues to dictate priorities and the allocation of human and material resources. This affects all areas, including law enforcement agencies and the prosecutor's office. A significant number of officers from the National Police and the State Bureau of Investigation are engaged in investigating war crimes. Since the onset of the full-scale invasion, investigative authorities have been handling over 110,000 cases related to crimes committed by the military and government agents of the Russian Federation. This leads to work overload and forces them to prioritize certain activities over others. The same applies to human rights organizations in Ukraine: many of them have had to redirect their efforts.

For many, engaging in documenting war crimes, organizing humanitarian assistance for victims of shelling, working with internally displaced persons, and addressing other aspects related to the war and its adverse consequences have become top priorities.

### **Healthcare in the penitentiary**

One of the primary challenges that has persisted and worsened under wartime conditions is the appalling healthcare provision in places of detention, particularly in penitentiaries.

The reform in this area and the establishment in 2017 of a new, independent structure within the Ministry of Justice—the State Institution "Health Center of the State Penitentiary Service of Ukraine"—only worsened the situation regarding healthcare provision for individuals serving sentences in penitentiary institutions.

Prior to the reform, penitentiary institutions could use some of their revenues from various sources to support and partially cover inmates' healthcare needs. However, after the reform removed healthcare from their jurisdiction, they lost this capability. For example, penitentiary institutions' administration is no longer responsible for renovating medical unit premises, purchasing medicines and supplies, providing special transport for prisoner transfers, upgrading laboratory and medical office facilities, purchasing or repairing medical equipment, and other aspects of medical care.

The reform has also negatively affected the staffing of medical units in the penitentiary system. Previously, their low salaries were compensated by their special service status and the possibility of early retirement based on years served, along with social benefits and allowances. After the medical service was removed from the penitentiary jurisdiction and its personnel lost their special status, these compensatory mechanisms were eliminated. Consequently, a large number of doctors resigned, and finding new personnel willing to work under existing conditions has become very difficult. All of these factors have a negative impact on healthcare provision in the penitentiary system.

## **High-profile torture cases in 2023**

### *Extortion by means of torture*

In June 2023, former senior managers of Correctional Colony No. 77 in Berdyansk were arrested and notified of suspicion in criminal proceedings.

They were charged with creating and directing a criminal organization, torturing inmates, and extortion under Article 255, Part 1; Article 127, Part 2; and Article 189, Part 4 of the Criminal Code of Ukraine.

This colony has repeatedly faced criticism from human rights defenders, including the Council of Europe's Committee for the Prevention of Torture (CPT), which highlighted instances of torture and ill-treatment of prisoners in its [report](#) following the CPT's visit to the colony in 2020.

According to a [report](#) from the prosecutor's office, between 2016 and 2021, the colony's management established a criminal group for the purpose of extortion.

The perpetrators, acting on instructions from the leaders of the criminal group, employed various methods of torture on the inmates. They wrapped the victim in a wet mattress and caused suffocation by covering their face. They also hit victims with a plastic or wooden

stick on their feet and buttocks and smashed their finger phalanges. They punched them in the neck vertebrae area, causing the victim to momentarily lose coordination or even consciousness, and twisted their arms behind their backs. Another form of torture involved inducing a fungal infection under the victim's nails using a contaminated sewing needle. Prisoners were tied up and immobilized for extended periods, sometimes forced to stand in one position for 12 hours or more. Other forms of ill-treatment were also reported. The perpetrators demanded funds from the victims' family members to stop the torture. The money was typically transferred to the bank cards of family members of the perpetrators ("duty prisoners") or senior duty prisoners. The recipients withdrew the funds and transferred them in cash to the colony's management through parcels delivered to the colony. Earlier in this case, five inmates who were part of the criminal organization were prosecuted. They were the perpetrators who followed instructions from the colony's management and tortured other prisoners to extort funds.

#### *Lack of medical care after the use of torture*

During a [visit](#) to Sofiivska Correctional Colony No. 45 in the village of Makorty, Kryvyi Rih district, Dnipropetrovsk region, a group from the National Preventive Mechanism (NPM), including representatives from the Ombudsman's Office and members of the public, discovered an inmate in serious condition at the neurological department of Sofiivska Multidisciplinary Hospital No. 45. The inmate had not received the necessary medical care. After the intervention from the NPM, the patient was transferred for treatment to the Mechnikov Dnipropetrovsk Oblast Clinical Hospital, where the man died. It was later determined that the prisoner had been severely beaten at one of the detention facilities and subsequently did not receive proper treatment, resulting in his death.

Based on this violation, the Ombudsman initiated proceedings into the failure to provide proper and timely medical care, which also included indications of torture, inhuman, or degrading treatment or punishment. The case file has been sent to the National Police. Currently, the police investigative agency has initiated criminal proceedings and commenced a pre-trial investigation.

The reason behind the decision to assign the police as the investigative authority is that the medical institution's personnel no longer hold official status following the transfer of the medical service to the Ministry of Justice.

It is likely that criminal charges have been brought against hospital personnel, given that the man was discovered during a monitoring visit by the NPM. Later on, if the investigation finds evidence of involvement by the colony administration, the case may be transferred to the State Bureau of Investigation. But even in this scenario, it may not be considered an official crime, as most nurses and paramedics in colonies have transitioned to voluntary employment and are no longer classified as officials.