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**REFORM  
OF THE PENITENTIARY  
HEALTHCARE**

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The reader is offered analytical materials on the state of medical care in  
penitentiary institutions of Ukraine, prepared by the Kharkiv Human Rights  
Protection Group, and the vision of human rights activists on the reform of  
penitentiary healthcare.

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## ABBREVIATIONS

ART	Antiretroviral therapy
CC	Criminal Code of Ukraine
CEC	Criminal Executive Code of Ukraine
CP	Criminal proceeding
CPC	Criminal Procedure Code of Ukraine
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECtHR	European Court of Human Rights Human Rights Protection Group”
HC	Health Centre
KHPG	Kharkiv Human Rights Protection Group
MoJ	Ministry of Justice of Ukraine
MoH	Ministry of Healthcare of Ukraine
PG	Prosecutor-General of Ukraine
PI	Penitentiary Institution
PC	Penal Colony
PTDC	Pre-Trial Detention Centre
SBI	State Investigation Bureau of Ukraine
SCES	State Criminal Enforcement Service of Ukraine
SI	State Institution

# THE STATE OF THE PENITENTIARY HEALTHCARE

## **PRISONERS' RIGHTS TO HEALTH PROTECTION AND MEDICAL CARE<sup>1</sup>**

Each State Party to the UN Convention against Torture is required to submit periodic reports on the implementation of the Convention to the UN Committee against Torture and Ill-Treatment (hereinafter — the Committee). The previous, Sixth Report of Ukraine, was considered by the Committee in November 2014.

In early 2017, the Committee provided a list of 42 issues completely covering the problems of torture and ill-treatment to the Government of Ukraine. In November 2018 the Government had prepared a draft of the Seventh Periodic Report (hereinafter — the Report). The draft is posted on the website of the Ministry of Justice of Ukraine<sup>2</sup>.

The report of the Kharkiv Human Rights Group, which is offered to the reader's attention, answers several questions of the Committee and is part of our commentary on the Seventh Periodic Report of the State.

### **REFORM OF THE MEDICAL SYSTEM IN PENITENTIARY INSTITUTIONS**

Provision of healthcare to convicts is one of the most urgent problems in the penal system. During the monitoring visits to PIs (see comment to question 27), we were able to find out the actual state of penitentiary healthcare, and our findings differ greatly from the information provided by the Government.

In September 2016, KHPG visited an interregional hospital that services the Buchaniv PI No. 85 in Kyiv Region and found a number of

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<sup>1</sup> Authors are Tamila Bepala, Hanna Ovdienko, Maksym Reviakin, Gennadiy Tokarev and Yevgeniy Zakharov.

<sup>2</sup> [https://minjust.gov.ua/news/announcement/gromadski-obgovorennya-proektu-periodichnoi-dopovidi-ukraini-pro-vikonannya-polojen-konventsii-oon-proti-katuvan?fbclid=IwAR18NrKG6QsgGcRe\\_ti02XGCs26mkeWlQwPhwv4rtbLnnfHr0j7TtwYjM5Pw](https://minjust.gov.ua/news/announcement/gromadski-obgovorennya-proektu-periodichnoi-dopovidi-ukraini-pro-vikonannya-polojen-konventsii-oon-proti-katuvan?fbclid=IwAR18NrKG6QsgGcRe_ti02XGCs26mkeWlQwPhwv4rtbLnnfHr0j7TtwYjM5Pw)

violations there, such as serious violations of sanitary requirements, poor nutrition for sick convicts, virtual lack of walks in the open for them, especially for those unable to move around on their own, poor organization of medical care, and most importantly, lack of proper medical treatment, or even medical protocols established by the MoH. Thus, it is the convicts, not medical personnel, that administer medical injections and even intravenous therapy to each other. In one particular case, a convict with obvious signs of a mental disorder had been kept with other convicts and died shortly after our visit. We sent a petition to the MoJ regarding these violations, yet the Ministry essentially chose to ignore it, deeming the above shortcomings to be minor, and refused to conduct a formal inquiry into the matter<sup>3</sup>.

Following the reform of penitentiary healthcare in July 2018, our monitors once again visited this hospital, which had been renamed Multidisciplinary Hospital of the SIHC, and found the same problems, only compounded by a catastrophic shortage of doctors and medicines<sup>4</sup>.

The penitentiary healthcare reform mentioned by the Government has actually made the situation worse for convicts. There are, of course, objective reasons for this, such as insufficient funding for penitentiary healthcare (50%), medical units requiring renovation (and no funding for it), lack of equipment (only 30% provided), with 70% of what's available being outdated. However, this is not the main problem. Most medical units in PIs, multidisciplinary as well as specialized hospitals of the SIHC, lack specialists. The shortage of medical staff in PIs is not a new problem, yet it remains very urgent to this day. According to the SIHC, as of late September 2018, the shortage of personnel amounted to about one-third, 40% of them doctors. In some institutions, the situation was critical<sup>5</sup>: some of them have only the heads of medical units; at the medical unit of the Dnipro PTDC (no. 4), there was only one paramedic to service 1,700–1,800 convicts, which makes it impossible to even visit the convicts to check up on their health, let alone treat them all. According to the SIHC, as of May 2019, Ukrainian PIs had a staffing list of 2,559, of which 885.25 were doctors. Vacancies constituted 832.25

<sup>3</sup> <http://khpg.org/index.php?id=1495012193&w=%D0%B0%D0%BA%D1%82+%D0%BF%D0%BE+%D0%91%D0%92%D0%9A%5C-85>

<sup>4</sup> <http://khpg.org/index.php?id=1531552900&w>

<sup>5</sup> <http://khpg.org/index.php?id=1543315523&w>

staff units, with 336.25 of those being for doctors<sup>6</sup>. Currently, according to HC, staffing is around 90%, although in some institutions its lack is significant.

According to the report of the Ombudsman for 2019, for the second year in a row the level of ensuring the right of individuals to health care and medical assistance remained low in most of the places of non-liberty<sup>7</sup>. Due to that situation in the prison health care and increase of mortality among the prisoners, the Prosecutor General, Ruslan Ryaboshapka, numerous times addressed the Prime Minister of Ukraine, Oleksiy Gonscharuk, for the urgent intervention in the situation with delaying the reform of criminal executive medicine<sup>8</sup>.

Only since April 2019 HC began implementing to obtain the licenses for each branch (medical unit and medical institutions that are part of its structure) separately according to the Licensing conditions to conduct economic activity in medical practice. As of 01 January 2020 19 branches of SI "Health Centre of the State Criminal-Executive Service of Ukraine" obtained rights to conduct economic activity in medical practice, except the branches in Dnipropetrovsk and Donetsk oblasts.

But in 2021 the multidisciplinary hospital at Dnipro PC (No. 4) has not performed any surgery<sup>9</sup>.

Of course, the removal of medical workers from the list of law enforcement officers at their respective institutions, as well as the fact that they are no longer subordinate to administrations of PIs are positive steps, but in many cases this "independence" is imaginary. SCES healthcare institutions are located on the premises of their respective PIs and are thus required to obey the administrations' rules regarding the regime, monitoring of convicts and security; the heads of these healthcare institutions must be present at meetings held by PI wardens; they must submit requests to the administrations in order to transfer convicts to civilian hospitals or to use vehicles for this, etc. For these reasons, the Government's claims of independence in decision-making

<sup>6</sup> Information based on SCES's reply to the KHPG.

<sup>7</sup> <https://ombudsman.gov.ua/ua/page/npm/provisions/reports/>

Спеціальна доповідь Уповноваженого Верховної Ради України з прав людини про стан реалізації національного превентивного механізму у 2019 році, с. 32.

<sup>8</sup> [https://www.gp.gov.ua/ua/news?\\_m=publications&\\_c=view&\\_t=rec&id=264711](https://www.gp.gov.ua/ua/news?_m=publications&_c=view&_t=rec&id=264711). Прес-реліз від 15.01.2020.

<sup>9</sup> [https://coz.kvs.gov.ua/?page\\_id=160](https://coz.kvs.gov.ua/?page_id=160).

concerning the treatment of convicts (see para. 200 of the Report) are an exaggeration.

SIHC's activities was extremely opaque. The web site of the HC was created under the pressure from the public. There are also no lists of regional healthcare facilities that provide medical assistance to convicts. Even now the statistics of the infection is only provided in the summarized form for Ukraine in general.

After penitentiary healthcare had been made the responsibility of an independent state agency, the heads of PTDCs and PCs assumed that they were no longer responsible for the life and health of convicts, although no such changes had been made to legislation, nor could they have been made. In practice, this attitude has resulted in situations when PC or PTDC administrations refuse to consider petitions, complaints and requests for medical assistance submitted by convicts, their families and lawyers. SCES healthcare facilities at PIs do not have their own communication channels, so all communication goes through the management of the appropriate SIHC branch, which significantly complicates and delays the provision of medical care to sick convicts.

The International Expert of the Joint Project of EU and the Council of Europe *“European Union and the Council of Europe work together to support the prison reform in Ukraine”*, Jorg Pont, provided the following recommendations for the improvement of cooperation between HC of SCES and SCES, in particular, the following:

- provide the unrestricted access of not only the medical workers to the convicts/detainees, but also vice versa;
- make a clear division of competencies of medical staff of HC and the employees of SCES, so that each one would only perform their own functions;
- ensure the preservation of medical secrecy regarding the state of health of convicts, including during their medical examinations and storage of medical records;
- arrange the timely (if needed, urgent) transporting of the convicts to the civil hospitals and their stay there;
- introduce the obligation of heads of institutions to consider doctors' opinions on healthy living conditions of convicts, similar to Articles 45.1, 45.2 of the European Prison Rules;

- develop codes of professional ethics for medical workers and staff of SCES;<sup>10</sup>
- develop the standard working procedures and training procedures for both categories of employees;
- resolve the issue of recording complaints about the use of violence;
- introduce a mechanism for reviewing the complaints of convicts about medical care<sup>11</sup>.

### GENERAL ISSUES IN MULTIDISCIPLINARY HOSPITALS AND MEDICAL UNITS

Nowadays the following issues remain unresolved: an adequate level of examination of prisoners for tuberculosis and provision of medical assistance to people with various forms of tuberculosis; continuous treatment with antimycobacterial therapy for prisoners suffering from a contagious form of tuberculosis; continuous treatment with highly active antiretroviral therapy for HIV-positive prisoners; hiding the facts of the convicts or detainees receiving bodily injuries during their stay in the institutions; adequate provision of the medical units with necessary equipment and medicines; failure to conduct or formal medical examinations of prisoners during the release from the disciplinary premises or the use of special means to them; the absence of organization of medical provision of the prisoners during their staging (the transfer of the prisoners with contagious diseases (tuberculosis), is carried out in the general staging procedure, without providing the necessary isolation and personal protective equipment, which contributes to the increase of epidemiological situation related to tuberculosis)<sup>12</sup>.

After the introduction of legislative authorization for substitution maintenance therapy (SMT) in PI in January 2021 such therapy was on-

<sup>10</sup> <https://www.coe.int/uk/web/kyiv/-/how-to-improve-health-care-in-ukrainian-prisons-recommendations-from-an-expert-of-joint-eu-council-of-europe-project>

<sup>11</sup> <https://www.coe.int/uk/web/kyiv/-/how-to-improve-health-care-in-ukrainian-prisons-recommendations-from-an-expert-of-joint-eu-council-of-europe-project>

<sup>12</sup> [https://ombudsman.gov.ua/files/marina/zvit2\\_web.pdf](https://ombudsman.gov.ua/files/marina/zvit2_web.pdf)

ly provided in two institutions, it was received by 53 convicts<sup>13</sup>, constituting a small percentage of the total need for SMT.

Even with all these objective factors, the main problem still lies in the attitude of prison doctors toward the health of convicts. Based on our monitoring visits, low quality of healthcare, or even its absence in some places, are the main things that the convicts complain about in almost every PI. Patients have to wait for weeks to be examined by a doctor, let alone for their treatment; moreover, they are told to buy medicines at their own expense — those needed for medical operations as well as those for general use<sup>14</sup>. Convicts are often forced to put bandages on themselves<sup>15</sup>. Our monitoring shows that a year and a half after the launch of the penitentiary healthcare reform the state of healthcare in prisons is catastrophic, and in some institutions healthcare is simply non-existent. The provision of medical care to convicts suffering from serious illnesses is also poor. Thus, no help was provided to a patient with hepatitis C (Dnipro PI No. 4), cancer patient (Dnipro PI No. 4), tuberculosis patient (Chernihiv PTDC)<sup>16</sup>. Some SCES healthcare institutions still have no medical license, so there is no guarantee that their activities meet licensing standards (Lviv PI No. 19). A similar situation can be observed at the Zakarpatska PI No. 9, Chortkiv PI No. 26, Kropyvnytskyi PTDC, Pyatykhatska PI No. 122 and other institutions)<sup>17</sup>.

In February 2019, during the visit of our monitors to the Zhovtovodsk PI No. 26 in Dnipropetrovsk Region, it was discovered that the medical unit there lacked the most essential medicines; one of the convicts complained that they did not even have bandages. Diabetes patients there are not receiving insulin and convicts with fractured bones get no splints. Although the PC has a medical laboratory specialist, the laboratory itself has neither the reagents nor the equipment for on-site tests. In order to examine a convict, specialized examinations or dental care included, they must be taken outside the colony, but this is only done for those who can afford the cost of gasoline. There has been no

<sup>13</sup> Response of HC of SCES of 12.03.2021.

<sup>14</sup> <http://khp.org/index.php?id=1472626296&w=%E2%84%96>

<sup>15</sup> <http://khp.org/index.php?id=1543315523&w>

<sup>16</sup> KHPG Database of Applications for Legal Aid

<sup>17</sup> [http://www.ombudsman.gov.ua/files/Dopovidi/spec\\_dopov\\_npm\\_2016\\_n.pdf](http://www.ombudsman.gov.ua/files/Dopovidi/spec_dopov_npm_2016_n.pdf)

fluorography specialist for over a year at the colony, so the convicts have not been undergoing fluorography, while it was later discovered that a person released from the institution had an open form of tuberculosis<sup>18</sup>. According to the institution's therapist, not all medicines are provided free of charge under state programs. As a result, those convicts who can afford their own medication are prescribed more expensive drugs, which are not available at the medical unit, while those who can't are treated with whatever is available<sup>19</sup>.

In August 2019, our monitors visited the Dnipro Multidisciplinary Hospital No. 4 located on the premises of the Dnipro PI No. 4. During the visit, we discovered that no treatment was being provided to sick convicts, including those who had survived myocardial infarction. According to the doctors, they do not even have enough basic medicines, let alone specialized ones. If a convict has relatives, they are often the ones to buy the medicines. The institution's doctors do not monitor their patients' health, they do not perform daily rounds and do not even visit convicts when called. It is a difficult task for the convict to get examined by a doctor, the logs of preliminary registration for outpatient care are not available to the prisoners and their complaints to the administration are useless. If a convict requires additional tests that cannot be performed at the institution, this is either not done at all or done after a considerable delay. One of the patients who had been brought a long way to be treated there was forced to forgo treatment under threat of physical violence. According to the convicts, this way the hospital makes room for those who pay for their stay and remain there for months even when they have no need for treatment<sup>20</sup>. According to a lawyer who provides legal assistance to two seriously ill convicts held at this facility, both of these convicts are kept in regular cells and are not getting any medical help. One of the inmates, disabled since childhood, had his spleen removed as a child and suffers from hepatitis C as well as liver cirrhosis; 1.80 m tall, he cannot eat and weighs 50–55 kg. In spite of this, he is still unable to get a place at the prison hospital. Another inmate, with a temporary orthopedic plate inside his tibia, has developed a purulent process that could result in abscess and

<sup>18</sup> <http://khp.org/index.php?id=1531552900&w>

<sup>19</sup> <http://khp.org/index.php?id=1553780490&w>

<sup>20</sup> <http://khp.org/index.php?id=1565960227>

loss of limb or even death. Our organization has appealed to the MoJ, PG and the Ombudsman regarding this, but to no avail.

Complaints lodged with investigating judges under Article 206 CPC by persons held in pre-trial detention facilities that are not being provided with medical care despite requiring it, are not particularly effective either, since prison doctors and administrations in the vast majority of cases fail to comply with court orders requiring them to provide such care, or, at the very least, delay its provision indefinitely.

In para. 204 of the Report, the Government mentions that Article 116 CPC allows convicts to receive medical advice and treatment at civilian healthcare facilities, which is in line with every person's right to choose their doctor. At the same time, receiving medical services in civilian healthcare institutions, except for specific ones determined for each Ukrainian region, is only done at the expense of the convicts themselves or their relatives. Given the extreme shortage of medical personnel and, what's even more important, medical equipment, as well as the poor selection of medicines, the need for treatment outside SCES institutions or for "civilian" medical examinations arises quite often, since the penitentiary healthcare system is often incapable of carrying out examinations and treatment of inmates. Thus, this approach to treatment is discriminatory toward low-income convicts who cannot afford paid medical services. Moreover, given the limited capacity of Ukrainian penitentiary healthcare to provide treatment to convicts, depriving them of an opportunity to receive treatment in civilian hospitals in many cases means depriving them of their only chance to survive. Only a small number of inmates, such as VIPs like the former Prime Minister of Ukraine Yulia Tymoshenko (ECtHR judgement of 30/04/2013)<sup>21</sup> or famous businessman and leader of the political party "UKROP" G. Korban (ECtHR judgement of 04/07/2019)<sup>22</sup> can take advantage of these opportunities.

In paras. 204, 205 of the Report, the Government claims that PI medical units are provided with medicines for the treatment of convicts

<sup>21</sup> <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2249872/11%22%5D%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%5D%2C%22itemid%22:%5B%22001-119382%22%5D%7D>

<sup>22</sup> <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2226744/16%22%5D%2C%22documentcollectionid%22:%5B%22JUDGMENTS%22%5D%2C%22itemid%22:%5B%22001-194188%22%5D%7D>

suffering from tuberculosis and HIV/AIDS. However, we are regularly contacted by convicts and their families who complain about poor medical treatment for HIV-positive inmates. In some cases, no treatment is provided at all, or it is inappropriate for the patient's HIV type, or the ART therapy conflicts with anti-tuberculosis therapy, which forces patients to stop taking ART medication. Some convicts have a CD4 cell count of 50–100 or even lower than 20. Given below is the information from the reports we have received in 2019 regarding the absence of treatment for HIV-positive convicts.

At the Kamyansk PI No. 101, the administration failed to comply with a court order to conduct a medical examination of a patient with IV clinical stage HIV in order to determine his CD4 cell count. At the Oleksiyivska PI No. 25, a convict with IV clinical stage HIV was forced to perform manual labour and was not provided with any treatment, which made him contact us for legal aid. At the Dnipro Multidisciplinary Hospital No. 4, a convict was discovered who has IV clinical stage HIV as well as hepatitis B and C and is not getting the treatment he needs<sup>23</sup>.

In 2020 the National Preventive Mechanism detected the facts of interruption of treatment with substitution maintenance therapy for the convicts, namely, during the monitoring visits to Vinnitsia PI No. 1, Dnipropetrovsk PI No. 4 etc, it found out that the prisoners are not brought from the institutions to health care institutions to obtain the substitution maintenance therapy, because of that the treatment is interrupted. Such persons are only detoxified in the institution<sup>24</sup>.

Also concerning is a low level of diagnosing of the infectious diseases. In particular, in Zhovtovodsk PC No. 26 the fluorography to diagnose pulmonary tuberculosis is not performed for over a year already. This can lead to an epidemic of the disease among the convicts. No pre-trial detention center or PI with the function of pre-trial detention center can provide the full isolation of persons with active form of tuberculosis. In some institutions the medical unit has not receive license for the medical practice, and therefore does not have guarantees that it meets licensing standards on technical and qualification grounds

<sup>23</sup> <http://khpg.org/index.php?id=1565960227>

<sup>24</sup> [https://ombudsman.gov.ua/files/marina/zvit2\\_web.pdf](https://ombudsman.gov.ua/files/marina/zvit2_web.pdf)

(Lviv PI No. 19). The similar situation is in Zakarpatska PI No. 9, Chortkiv PI No. 26, Kropyvnytskiy pre-trial detention center, Pyatykhatka PC No. 122 and other institutions)<sup>25</sup>.

Due to the lack of permission to carry out activities in the field of nuclear energy, the work with ionizing radiation sources was suspended, namely X-ray rooms in all medical institutions of the State Institution "Health Centre of the State Penitentiary Service of Ukraine", it affected the quality of medical assistance in pre-trial detention centres (for example, SI "Kyiv SIZO" that holds around 2000 persons, and others), penitentiary institutions, and, in particular, the specialized tuberculosis hospitals (Holapristanska, Kherson, Snigurivska, Dnipropetrovsk, Zbarazka and others) and non-compliance with infection control in penitentiary and medical institutions.

The anti-epidemic and prophylactic measures in the institutions require additional attention by the medical institutions of SI SCES of Ukraine. Many institutions lack the commissions for the infection control of tuberculosis, the sputum collection takes place in unsuitable premises, due to the lack of such collection points, there are no infection isolator wards. The organization of medical supervision over the HIV-infected also required attention. Thus, the institutions did not have the designated medical workers responsible for the measures to counteract the HIV/AIDS. Dispensary surveillance cards for HIV-infected persons were not maintained. As a result, there is an increased risk of TB infection for other persons. The above-mentioned was detected in Izyaslav PC No. 31, Petrivka PC No. 49, Zhovtovodsk PC No. 26, Cherkasy PC No. 62, Kherson SIZO, Kyiv SIZO, Kryvyi Rih PC No. 80 etc.

Due to the lack of the special stationary vehicles, designed for staging the patients to the specialized tuberculosis hospitals for the examination, diagnosis or exclusion of diagnosis, the people with diagnosed tuberculosis are staged without taking into account the resistance profile and in some cases with other prisoners who do not suffer from this disease, which does not meet the requirements of infection control for tuberculosis.

In early 2018, there was a measles outbreak in Ukraine that also reached PIs, particularly the Vilnianska PI No. 11, Khmelnytskyi PTDC

<sup>25</sup> [http://www.ombudsman.gov.ua/files/Dopovidi/spec\\_dopov\\_npm\\_2016\\_n.pdf](http://www.ombudsman.gov.ua/files/Dopovidi/spec_dopov_npm_2016_n.pdf)

and Dnipro PI No. 4. Despite this, no measures were taken to prevent its spread among inmates (such as vaccinations or tests to determine immunity levels), and the very fact of the outbreak had been denied by the SCES for a long time. Due to the risk of an epidemic and given the PIs' low capacity to deliver a proper diagnosis, as well as poor detention conditions and nutrition there, our organization in March 2019 appealed to the MoJ and the Ombudsman to take action to prevent a measles epidemic. In May 2019, a group of convicts got infected at the Starobabanivska PI No. 92 in Cherkasy Region. However, the Main Interregional Directorate of the SCES replied to our petition sent on Facebook with a joke: "...thing is, people do tend to get sick sometimes"<sup>26</sup>.

### SPECIFIC CASES OF INADEQUATE TREATMENT OF PRISONERS

Given below are specific cases of poor healthcare in PIs over the 2014–2021 period, which illustrates the general state of penitentiary healthcare in Ukraine.

1. A woman, sentenced for selling drugs, who suffers from IV clinical stage HIV and cancer, was not provided with timely cancer treatment in 2014–2015 at the Zbarazh Correctional Colony No. 63 in Ternopil Region or at the penitentiary service hospitals. In addition, according to the ECtHR, Ukraine failed to comply with the Court-ordered interim measures, namely to carry out an immediate examination of the woman and provide the required treatment<sup>27</sup>.

2. A man with viral hepatitis C, held at the Kirovograd PTDC No. 14 for selling drugs, was not provided with proper systematic medical supervision or a treatment plan for his hepatitis. In this case, Ukraine also failed to comply with the ECtHR's order to provide treatment to the patient<sup>28</sup>.

3. A man, sentenced to 14 years in prison for premeditated murder, developed Buerger's disease while serving his sentence, which resulted

<sup>26</sup> <http://khp.org/index.php?id=1559041136>

<sup>27</sup> <http://hudoc.echr.coe.int/eng?i=001-167128>

<sup>28</sup> <http://hudoc.echr.coe.int/eng?i=001-166965>

in eventual amputation of two lower and two upper extremities. In addition, the convict was suffering from hypertension, coronary heart disease and other conditions, as well as had survived a heart attack. Naturally, he could not take care of himself, while his transportation to and from the hospital, given his inability to sit on his own, was done in a way that not only constitutes inhuman and degrading treatment, but is also shocking in its cruelty — he was tied to a toilet. Since June 2015, for two years, the courts had been unwilling to release the convict on the grounds of a serious illness, although doctors warned that his treatment could not be effective in prison and that further detention could kill him. Finally, after an application for interim measures had been submitted to the ECtHR requesting to provide proper treatment and care for the convict, a district court ordered his release in July 2017. The man died three weeks later.

4. A 53-year-old man had been held at the Chernihiv PTDC since July 2016. In September 2016 he had a myocardial infarction and was diagnosed with a number of cardiovascular conditions, including class II heart failure. In February 2017, doctors at a civilian hospital found that the man's health was at risk and that he had to take a cardiac ventriculography test, which had to be done in Kyiv and cost 4,000 UAH. Over the course of his detention, an ambulance had to be called for him 12 times, including, in April 2017, during a court hearing, after which the man's lawyer sent an application for interim measures to the ECtHR with a request to force the Government to provide proper medical treatment to his client. The ECtHR had to repeat its instruction after the Government had ignored the first one. In October 2017, the restraining measure for the applicant was changed and he was able to take the necessary tests in Kyiv<sup>29</sup>.

5. In 2017, a woman with two children, a 1.5-month-old and a 5-year-old, was arrested at her home by the police on suspicion of fraud, taken away from her children and brought straight to the investigating judge, who chose detention as her pre-trial restraining measure. The woman has a history of mental problems and after several months at the Zhytomyr PTDC she was diagnosed with a psychiatric disorder that was progressing rapidly. The lawyer's request for the court to change the restraining measure was denied. As a result,

the patient's condition became so severe that she became incapable of communication, displayed aggressive behaviour and lost all self-control. She was transferred to a psychiatric hospital for inpatient treatment; on her way there, she was brutally beaten by escorting officers for disobeying commands. After her restraining measure had expired, the woman was discharged from the hospital, but she still has not fully recovered and periodically undergoes inpatient treatment in a psychiatric hospital.

6. A man with stage IV HIV as well as urolithiasis has been serving his sentence since March 2017 at the Sofia PI No. 45 in Dnipropetrovsk Region. Experiencing terrible pain and unable to move, he was recommended immediate surgery by doctors. In summer 2018, the patient was taken to a multidisciplinary hospital but was not operated on, which by November 2018 made his condition life-threatening. The lawyer filed an application for interim measures with the ECtHR. After the ECtHR ordered the Government to provide the necessary treatment to the patient in accordance with medical recommendations, the man finally underwent surgery.

7. In the summer of 2017, a 19-year-old girl, HIV-positive since childbirth and disabled since childhood, who also suffers from tuberculosis of peripheral lymph nodes, was placed in a PTDC on the orders of the investigating judge. On admission to the PTDC she underwent a tomography scan, which revealed lymphadenopathy (enlarged lymph nodes), which required further examination in a hospital, including a biopsy. Nothing of the sort was done though and the girl had been treated for pulmonary tuberculosis over the course of six months, even though she had tested negative for it. Finally, the required examination at an oncology clinic in January 2018 revealed a lymphoma, which had already progressed to stage II-B. However, even after the cancer diagnosis, she had been deprived of treatment for three more months, among other things, because of lack of means to take her to the oncology clinic. When the girl started chemotherapy at the end of April 2018, instead of the four drugs that she had been prescribed by doctors she was given only one. In August 2018, she underwent therapy involving two drugs. From September 2018 to January 2019, the treatment was once again halted, among other things, due to signs of toxic hepatitis in the patient after chemotherapy sessions, as she was not provided in time with hepatoprotection

<sup>29</sup> <http://hudoc.echr.coe.int/eng?i=001-189592>

drugs and other medicines at the PTDC required for post-chemotherapy recovery<sup>30</sup>.

8. A 27 year old man serving his sentence at the Starobabanivska PI No. 92 in Cherkasy Region was diagnosed with nodular goitre class III–IV in September 2018 at a multidisciplinary hospital located on the premises of the Lviv PI No. 19, and was recommended immediate surgery. The tumour was impeding his breathing, he felt constant dizziness and a burning sensation in the heart area, yet he was brought back to the penal colony instead of undergoing the operation there and then. He was told to undergo additional examinations at civilian healthcare facilities at his own expense before surgery. In the end, the convict's mother found a civilian hospital that removed the tumour in January 2019.

9. A person accused of thefts was held in Odesa SIZO for two and a half years. In June 2020 he lost the possibility to move due to paralysis of unknown etiology, however, he was not transferred to the medical unit, and instead was left in the general cell. Accordingly, his cellmates took care of him. The court did not change his preventive measure, the patient was brought to the court hearings on a stretcher, and during court hearings he constantly lies on the dock. Despite the numerous complaints of the lawyers to all possible instances, the necessary medical examinations did not take place.

11. The convict is serving his sentence in Odesa PC No. 14. He has a number of diseases, including stage 4 HIV with concomitant chronic infectious diseases. The medical commission refused to conduct a medical-consultative assessment of his condition, and the lawyer asked the court to release the convict due to illness and oblige the colony administration to hold a commission, but the court refused to open proceedings. Following the lawyer's appeal, the local court's decision was quashed and the case remanded. None of the scheduled meetings have taken place for more than eight months.

12. The convict is serving her sentence in Kamyanka PC No. 34, she suffers from diseases of the female genital organs, which in 2018–2019 were accompanied by constant pain and bleeding. The treatment in prison hospitals did not help, and in spring of 2021 her condition worsened. However, there were no examinations aimed at establishing the

diagnosis and possible treatment regime, despite repeated appeals to the relevant authorities, but she was offered to pay for it. The lawyer's request to have the patient examined and treated was denied, relying on the assurances of prison doctors about the adequacy of the patient's treatment, and the appellate court upheld the decision.

13. The convict, who is serving his sentence in Vinnytsia PC No. 86, had a stroke in 2019, which led to paralysis of part of his body and loss of ability to move. The lawyer prepared a petition to the court to release the convict due to illness, but under pressure from the administration of the institution, he refused the lawyer, as it seemed that the administration would do it itself. In November 2020, it became clear that the patient had not been released, he was lying, chained to a bed, and he was forbidden to communicate with the outside world. The lawyer filed a lawsuit to release the convict due to illness, after which he was taken to various prison hospitals several times, allegedly for examination, but even after receiving the opinion of the medical advisory commission, no court hearings have been held for more than six months. It happened once as a result of an injury of the patient when he fell on the stairs between the floors from a sheet on which he was carried to the colony premises to participate in a court hearing by videoconference.

14. The convict who in spring of 2021 was suspected of lung cancer is serving his sentence in Kharkiv PC No. 43. The lawyer appealed to the court to ensure the examination and treatment of the patient, but the court refused, without even notifying the lawyer of the scheduled meeting and the decision. After that, the patient was taken to a civilian hospital, where a computer tomography scan was performed, but he was not informed about the results of the examination.

With healthcare like this, the quality of medical records cannot be much better. Indeed, when no medical care is provided at all, such records (falsified) only appear in patients' medical records when legal proceedings are initiated concerning the negligence of prison doctors, such as proceedings at the ECtHR. Thus, the poor quality of medical records was mentioned in ECtHR judgements in the cases *Sergiy Smirnov v. Ukraine*<sup>31</sup> and *Beketov v. Ukraine*<sup>32</sup>.

<sup>31</sup> <http://hudoc.echr.coe.int/eng?i=001-188382>

<sup>32</sup> <http://hudoc.echr.coe.int/eng?i=001-190025>

<sup>30</sup> <http://hudoc.echr.coe.int/eng?i=001-194008>

## REACTION OF THE PENITENTIARY SYSTEM OF UKRAINE TO THE COVID-19 PANDEMIC

In 2020 the world was hit by coronavirus pandemic (COVID-19). In March 2020, the Joint Order of the Ministry of Justice, State Institution of HC “On approval of the Plan of anti-epidemic actions to prevent the introduction and spread of acute respiratory disease caused by the new coronavirus in the penitentiary institutions and pre-trial detention centers of SPS of Ukraine, for 2020” of 12.03.2020 No. 57-ОД/08/ОД–20 (hereafter — the Joint Order). This Order introduced in PIs a special regime of anti-epidemic protection which included the restrictions of the rights of the convicts and the introduction of prophylactic measures in order to prevent the disease outbreaks. In particular, among others, there were measures of disinfection of the buildings and food facilities of the penitentiaries, provision of access to personal protective equipment for the staff, the provision of daily temperature screening and visual examination of the staff of the institutions, visitors and detainees<sup>33</sup>.

Despite the positive anti-epidemic measures introduced by the Joint Order, its text only envisages the provision of personal protective equipment to the employees and visitors of the PIs, but it does not mention the necessity to provide the detainees themselves with such means. At the same time the convicts interviewed by our organization state that in many institutions there were no personal protective equipment. It was only used by some employees of the institution who often discarded such equipment after crossing the checkpoint<sup>34</sup>.

The cases were not infrequent that could be called systemic, connected to non-compliance with the recommended social distance (3 meters between the convicts during the inspections and other mass events). This recommendation was not complied with in the institutions and no measures are taken related to its implementation.

The Joint Order also provided for active identification of the potential diseased, by way of daily visual examination, temperature screening and interviewing of the convicts and detainees. According to the convicts, this direction of activity was not implemented even in the in-

stitutions where the management introduced and maintained the quarantine measures.

The Ministry of Justice has also set a task to ensure the readiness of the health care institutions of the HC of SPSU to identify and isolate the persons with acute respiratory disease caused by SARS-CoV-2 coronavirus, in particular, the availability of the required medicines, disinfectants and personal protective equipment, pulse oximeters, ventilators, oxygen concentrators etc. The Ministry pointed out the need to develop the new or to enhance the existing schemes of prospective re-profiling of health care institutions in case of mass flow of the persons with acute respiratory disease caused by SARS-CoV-2 coronavirus, to transfer all health care establishments to strict anti-epidemic regime, create mobile medical teams with the aim to actively detect persons with acute respiratory disease caused by SARS-CoV-2 coronavirus, and determine the insulators for hospitalization of contact persons with the aim of their examination and the implementation of treatment.

Despite the positive anti-epidemic measures introduced by this Joint Order, its text provides only for the provision of personal protective equipment to the employees of the PI and visitors, but does not indicate the need to provide such means to the convicts themselves. At the same time, the convicts interviewed by our organization note that in many institutions there were no personal protective equipment. They were used only by some employees of the institution, who often took off such means when crossing the checkpoint to the prison area.<sup>35</sup>

At the same time the attention should be paid to the fact that according to the statements made by the convicts during the interviewing, the actual implementation of the measures is not uniform. Some convicts sentenced to life imprisonment report that the communication with the outside world is really transferred to the video conference regime, catering is organized in the rooms where the convicts are held, the reception of parcels is carried out with the use of personal hygiene products — gloves and masks. Furthermore, the parcels are left for keeping for a day and only after that they are given to the convicts. The transfers of the convicts to the court and between the institutions is decreased. On the other hand, many requirements that

<sup>33</sup> <http://khp.org/index.php?id=1585728892>

<sup>34</sup> <http://khp.org/index.php?id=1588607936>

<sup>35</sup> <http://khp.org/index.php?id=1588607936>

can have decisive meaning are almost not complied with. For example, there are no changes concerning the movement of the prisoners around the territory of the prison, there are no additional sanitary and hygiene restrictions during the convicts' work. The disinfection in the institutions is carried out with excessive use of chlorine which is a toxic substance that can cause poisoning, acting, by the way, through the human respiratory system.

Among the shortcomings the convicts also note the lack of opportunity to exercise which is important in the conditions of decreased immune capability of the organism. The convicts do not always have the opportunity to have a walk in fresh air which also does not contribute to maintaining the good condition of the respiratory organs of the convicts. The possibility to provide the recommended social distance in the places of detention is a great problem, as well as the lack of awareness among the convicts on the issues of desired behavior algorithms in prevention of disease and in case of detection of the symptoms of the disease. Among other problems noted was the lack of disinfectants, continuous temperature screening of convicts (according to the convicts, in one of the institutions the temperature was measured with a malfunctioning thermometer) and the disinfection of the places of common use. The convicts call the non-compliance of the staff with the requirements of avoidance of the spread of disease one of the main shortcomings of anti-epidemic work, in particular it concerns the non-usage of personal protective equipment. It is a matter of simply ignoring the measures that are recommended in institutions.

The general systemic problem is insufficient amount or complete lack of PPE. Only the employees of the institutions and medical workers are provided with them, and not all institutions have them. As our respondents tell, in penitential institutions and SIZO the masks are only given to the persons who are brought to the court hearings. In correctional centers the prisoners receive them when they leave the premises of the centers. In correctional colonies the convicts usually do not have protective equipment. There are such institutions in which the staff either does not have any masks or does not use them.

The second general systemic problem is the lack of the medical assistance. There is a catastrophic lack of doctors, there are no medicines.

As a result, in many institutions the medical assistance is essentially absent. For example, a respondent from Poltava PI No. 23 reported the following: "The prisoner has a throat pain for almost a week now, there are headaches, dizziness, muscle pains, sometimes the temperature rises, but the doctor has not visited him yet. Only once a junior inspector gave a thermometer. The temperature was 38,8". The convict points out that there are too few doctors in the institution, that is why they do not help. This is what a convict from Stryzhavka colony No. 81 wrote: "Although I am in an interregional hospital, it is very difficult to have a consultation with a doctor. My temperature rises every day, there is vomiting, but the help is not provided. The doctor rarely admits patients, and he only examines the newly arrived ones". A respondent from Dnipropetrovsk PI No. 4 writes "There are very few doctors in the institution, that is why they do not come to help. This is due to impossibility to visit all the convicts in one day. After the doctor is called he comes on the next day at best". Accordingly, the requirement of daily temperature screening is not complied with.

The third common problem is the impossibility to keep the social distance of more than two meters. It is only possible to attempt to decrease the crowding and change the procedures in the penitentiary institutions with the aim of increasing the social distance between the prisoners after unloading the penitentiary institutions.

The situation varies concerning other questions. The situation is mostly better in female colonies than in male ones. The isolation of the diseased persons is performed promptly in eight colonies, slowly in 15 and it is not performed at all in 13 institutions. In some of the institutions there is the opportunity to exercise, other do not provide it. In 4 institutions the prisoners have access to Internet in the specially equipped rooms once a day according to schedule, in 9 — twice a week, in 7 — once a week, in 16 institutions prisoners do not have access to Internet. In 28 institutions there are no explanations about the symptoms of the disease, how to protect oneself from it, the rules of disinfection etc, in 9 institutions some information is provided.

The prisoners serving the sentence in the form of restriction of liberty (in correctional centers) are most at risk of contracting COVID-19 or transferring this disease outside. Those institutions do not have medical units and the convicts have more contacts with the outside world. Here is a description that is generally typical for all correctional

centers: "I am in the correctional center. Around 10% of us work here, others do not do anything, because the institution cannot provide us with work. Only gauze bandages are currently issued in the center due to coronavirus, and only for the persons who leave the territory of the institution. The temperature is measured only for the tick. If the coronavirus gets into our center, everyone will get sick. Since according to the law, we have to be escorted to shops, drug stores and the clinics, and we constantly contact other citizens. We can easily contract the virus or transmit it to others. The living conditions in the institution also contribute to contracting the disease. We are constantly in close contact with one another. It is very difficult to be alone".

The correctional institutions could be unloaded due to amnesty and parole. Back in April the Ministry of Justice with the participation of the experts from Kharkiv Human Rights Protection Group developed the relevant bills, they were approved by the Government on 24 April and introduced for the consideration to the Verkhovna Rada on 27 April (registration numbers 3397 and 3396 respectively). However, they were not examined in the committees. It was told that the President is against such measures, because it would adversely affect his political rating.

The adoption of the above-mentioned bills provided for the realization of the right to life and health of persons in custody and are among the most vulnerable to viral infection, as the conditions in which they find themselves are generally not adapted to large-scale epidemics; in particular, other countries faced it during the pandemic. According to the Ministry of Justice of Ukraine, in the event of the adoption of the outlined bills, more than 3,000 people could be fired from the SCES. The Commissioner for Human Rights of the Verkhovna Rada of Ukraine also addressed the Chairman of the Verkhovna Rada of Ukraine, the Chairmen of the Committees of the Verkhovna Rada of Ukraine and parliamentary factions with a proposal to facilitate the inclusion of the above bills in the agenda of the extraordinary session of the Verkhovna Rada of Ukraine and their operative consideration.

The draft laws were considered on 17 June, on the session of the profile Parliament Committee. The draft law on parole (No. 3396) was rejected, the draft law on amnesty (No. 3397) was sent for revision, however, in September it was removed from consideration.

On 1 July the group of 89 deputies introduced a new bill on Amnesty to the Verkhovna Rada, (reg. No. 3765). However, it is not considered either, for the same reasons

What is the level of COVID-19 infection in penitentiaries?

According to the regularly published data from the Health Center of the State Criminal Executive Service (SCES), 1126 diagnoses of COVID-19 are confirmed for 31 detainees, 38 convicts, 924 employees of SCES and 133 employees of Health Center of SCES as of 4 January 2021. Only 2330 PCR tests were performed. The correctional centers, which do not have medical units of the Health Center, are not covered by the statistics.

The last such data was published on April 21. 2342 diagnoses of COVID-19 are confirmed for 181 detainees, 356 convicts, 1596 employees of SCES and 209. Employees of Health Center of SCES. 3867 PCR tests were performed.

The scarce data on patients with COVID-19 in the penitentiary system should not be misleading: we believe that there are many more patients, but it is not detected. The testing of the prisoners is not provided for at all. Some of the prisoners underwent tests before coming to SIZO. The monitoring of the correctional colonies shows that in many of them the medical units are filled with the convicts that are treated for colds and are not tested. The medical units usually lack infectious disease doctors that could diagnose the course of the disease. At the same time, there are many requests for medical assistance, the prisoners often believe they have COVID-19. However, it is impossible to verify their statements. Therefore, the result is: no testing – no COVID-19!

As told by Ombudsman, Lyudmyla Denysova, when COVID-19 is detected during the dissection of the deceased prisoners, it is not documented in the statistics; it is believed that they died due to their main disease – AIDS, tuberculosis etc.

The prisoners are discriminated against comparing to the free people: they cannot undergo tests, and the presence of the personal protective equipment (PPE) fully depends on the wish and ability of the management of the institutions to allocate funds for that purpose. The regulations of the Ministry of Justice and Health Center of SCES do not provide for the duty to provide the prisoners with PPE.

The introduction of the quarantine worsened the general situation with provision of medical assistance. For example, the persons

with tuberculosis that was detected after the introduction of quarantine were left without the treatment, because they could only receive it in the specialized institutions for such prisoners. Since the transfer of the prisoners was prohibited during the quarantine and Ukrzaliznytsia did not work, such patients remained where they were during the introduction of the quarantine. Thus, seven convicts with tuberculosis were in Interregional Hospital at CC No. 85 in Bucha and could not get to the specialized CC No. 27 in Kharkiv region, and in June Ombudsman Lyudmyla Denysova arranged the special stage that would transport such patients. The similar story concerned seven convicts in Voznesensk colony No. 72 and in other institutions with other diseases.

Meanwhile, in April of this year there was an outbreak of COVID-19 in Pyatihatska colony No. 122, in May – in Boryspil colony No. 119.

The position chosen by the state authorities, which consists of expecting that the penitentiary institutions and SIZO would remain free from the disease, is wrong. Those mistakes may cost much. If the leadership of the state is serious about the fight against the spread of COVID-19, it must carry out the testing for the prisoners and staff in the institutions where there are confirmed diagnoses, at the expense of the state, and urgently consider the draft law No. 3765 on amnesty.

### **SOME ASPECTS OF VIOLATIONS OF THE CONVICTS' RIGHT TO MEDICAL CARE**

Summarising status of prison healthcare, we would like to emphasize the following aspects of violations of the convicts' right to medical care.

1. The delay in diagnosis and treatment, inadequate treatment, or its complete absence, as found in numerous ECtHR decisions (see the table below). The reasons for this are inadequate funding, insufficient material and technical stock of medical institutions, lack of medicines, as well as dishonesty of the staff of the SCES and the administration of institutions. The situation with medical care for detainees is even worse, as there is still no single regulation that would regulate the organization of medical care for such prisoners, despite the fact that a draft of such a document was developed and

issued. for public consideration, suggestions were submitted to it in early 2020<sup>36</sup>.

2. Absence, in the overwhelming majority of cases, of dietary nutrition for those that need it, as required by medical protocols, particularly in the case of gastrointestinal diseases, diabetes mellitus or hepatitis.

3. Prisoners in the final stages of a terminal illness are not provided with palliative care.

4. Transportation of convicts, especially those that (under Ukrainian regulations) must be escorted by a medical worker, is done in such poor conditions that it was repeatedly recognised by the ECtHR as inhuman or degrading treatment<sup>37</sup>. Furthermore, during transportation, sick convicts are only provided with the most basic medical care since their medical history files are sealed for the duration of the trips and may not be opened before they reach their destination, aside from special cases and only in the presence of a prosecutor.

5. When guarding sick convicts at a civilian hospital, escorting officers chain them to their beds, even those in critical condition, despite their being extremely physically impaired and unable to move on their own. Unjustified or excessive use of restraints on gravely ill convicts has been repeatedly recognized by the ECtHR as inhuman or degrading treatment in cases against Ukraine<sup>38</sup>; restraints were even used on a woman giving birth<sup>39</sup>. Nevertheless, such practices still remain in Ukraine's penitentiary system. Also, as our monitors learned from conversations with SCES employees, after changes to the regulatory documents on supervision and security (which are not open to the general public), 7 escorting officers are now required instead of 4 for escorting one convict. This means that now two cars instead of one are necessary to take a convict from a PI to a hospital, which doubles the organizational and financial effort. All these escorts remain at the medical institution, complicating, if not paralyzing, the work

<sup>36</sup> <https://rm.coe.int/09000016809f57a4>, Communication from Ukraine concerning the case of Nevmerzhitsky v. Ukraine (Application No. 54825/00) and Sukachov v. Ukraine (Application No. 14057/17)

<sup>37</sup> <http://hudoc.echr.coe.int/eng?i=001-167128>;  
<http://hudoc.echr.coe.int/eng?i=001-141632>

<sup>38</sup> <http://hudoc.echr.coe.int/eng?i=001-117134>;  
<http://hudoc.echr.coe.int/eng?i=001-158963>

<sup>39</sup> <http://hudoc.echr.coe.int/eng?i=001-161543>

of certain parts of said institution for the duration of the convict's stay there. These excessive security measures obviously exacerbate the existing difficulties with transporting convicts to civilian medical institutions.

6. Inappropriate conditions of detention for convicts with disabilities, which often reach levels of inhuman treatment. Thus, few rooms in PIs have ramps. Some of these convicts are unable to dress themselves. One of them was put in a punishment cell<sup>40</sup> because he stopped wearing his prison uniform since he couldn't fasten the buttons. Also, it is virtually impossible to get the disabled status for those who have been awaiting their sentence at a pre-trial detention facility, because, in situations like these, legislation only allows for such status to be granted to convicted persons. . The Head of PI "HC of SCES" admitted the existence of the issue of the disabled prisoners who require supervision: "It seems that the issue is bigger than I imagined"<sup>41</sup>.

7. The access to psychiatric care [in Ukrainian penitentiaries] is extremely inadequate for prisoners<sup>42</sup>. In its 2017 report, the CPT also noted that some prisons did not provide psychotropic drugs to detainees due to licensing restrictions and that this situation should be remedied immediately<sup>43</sup>.

8. The violations of the requirement of confidentiality of medical information about convicts. The presence of guards during the medical examination, as well as the use of handcuffs when visiting a civilian hospital is a common practice. The NPM report for 2018 states that "the medical examination of newly arrived prisoners was carried out through metal bars in the presence of other prisoners and police officers who escorted the latter to the institution, [...] a direct violation of the human right to respect for his dignity and the right to privacy"<sup>44</sup>. During the treatment of prisoners in civilian hospitals, their hands were handcuffed to their beds, regardless of their state of health.<sup>45</sup>

<sup>40</sup> <http://khp.org/index.php?id=1543315523&w>

<sup>41</sup> <https://www.slidstvo.info/articles/ochilnyk-tyuremnoyi-medysyny-kerivnyky-kolonij-zvykly-shho-medyk-povnyen-buty-rabom/>.

<sup>42</sup> CPT/Inf (2018) 41, para. 90).

<sup>43</sup> Ibid.

<sup>44</sup> Special Report of the Ombudsperson, Op. cit. p. 14.

<sup>45</sup> CPT/Inf (2012) 30, §8 and 53.

On the other hand, as a general practice, convicts themselves are not provided with written information on their state of health, despite the fact that the amendments to the Procedure for Organizing Medical Care for Prisoners provide for giving them the copies of medical reports.<sup>46</sup>

9. The problem with the supply of medicines, which are now purchased in a centralized manner, requires considerable time and in fact makes it impossible for the medical units to quickly purchase additional drugs, in the event of such a need. In 2018<sup>47</sup> and 2019<sup>48</sup> the authorities registered the widespread practice of keeping the expired medicines, including antiviral drugs and painkillers.

### **ISSUES WITH THE RELEASE OF CONVICTS ON THE GROUNDS OF A SERIOUS ILLNESS**

Release of convicts suffering from a serious illness constitutes yet another problem. There are several aspects to this issue: shortage of special medical commissions in the system that determine whether a convict has an illness that makes him or her eligible for such release; PI administrations' reluctance to refer inmates to these commissions; as well as corruption in the system. However, the biggest issue is with the approach of Ukrainian judges toward such release, since, after receiving the conclusion of a special medical commission on whether a convict has an illness from the appropriate lists, the judges take into account the same circumstances as with release on parole, even though their defendants are either at the final stage of a terminal illness or have lost the ability to survive on their own (such as in the case of full blindness or loss of limbs). Unfortunately, when deciding whether to release a person on the grounds of a serious illness, Ukrainian courts still use the guidelines (amended)<sup>49</sup> of the Plenum of the Supreme Court

<sup>46</sup> <https://zakon.rada.gov.ua/laws/show/z0990-14#Text>

<sup>47</sup> [https://inspections.gov.ua/subject/view/inspections?subject\\_id=250459&tab=2018&page=1](https://inspections.gov.ua/subject/view/inspections?subject_id=250459&tab=2018&page=1)

<sup>48</sup> [https://inspections.gov.ua/subject/view/inspections?subject\\_id=250459&tab=2019](https://inspections.gov.ua/subject/view/inspections?subject_id=250459&tab=2019)

<sup>49</sup> <https://zakon.rada.gov.ua/laws/show/v0008700-73>

of Ukraine of 1973, according to which in such cases it is necessary, in addition to the opinion of a medical commission, to consider the gravity of the convict's crimes, his behaviour while serving his sentence, his attitude toward labour, as well as how well he has been reformed, rather than the ECtHR's perspective expressed in the judgement to the case *Yermolenko v. Ukraine* (para. 51)<sup>50</sup>:

«There are three particular elements to be considered in relation to the compatibility of an applicant's health with being in detention: (a) the medical condition of the prisoner, (b) the adequacy of the medical assistance and care provided in detention; and (c) the advisability of maintaining the detention measure in view of the state of health of the applicant (see *Mouisel v. France*, No. 67263/01, §§40–42, ECHR 2002-IX)». Also, according to the ECtHR, «In such circumstances, the Court considers that, given the absolute prohibition of torture, inhuman and degrading treatment, it is not acceptable that the compatibility of the applicant's state of health with his detention was assessed solely by reference to an exclusive list of diseases and without any appropriate review by national judicial authorities» (ibid., para. 61). In Ukrainian realities, however, a person has no chance of being released if his or her condition is not on the appropriate lists.

As a result of this disregard for the health and life of convicts demonstrated by prison doctors, administrations and, most importantly, judges, most of the sick prisoners die in prison because of the absence of treatment, palliative care in their last days, or any care at all, while those fortunate enough to be released do not live long afterwards.<sup>51</sup>

### MORTALITY RATES IN PIS

SIHC has a peculiar approach to statistics on mortality rates: convicts that die in civilian hospitals are counted separately. Thus, by transferring terminally ill convicts to a civilian hospital, the penitentiary system artificially lowers mortality rates, using such terminology as “deaths on PI premises”. The statistics we received from the SIHC differs greatly from those provided by the Government in the Appendix to para. 198 of its Report:

<sup>50</sup> <http://hudoc.echr.coe.int/eng?i=001-114468>

<sup>51</sup> KHGP Strategic Litigation Database

Statistic/Year	2014	2015	2016	2017	2018
Number of deaths on PI premises	264	166	172	197	209

When a convict is taken to a civilian hospital and dies there, this is not included in the statistics on mortality at PIs. Convicts in the final stages of a terminal illness are taken to civilian hospitals on purpose in order to reduce mortality rates.

Here are some examples of poor healthcare provision to convicts that resulted in their death.

1. At the Kharkiv PTDC, 5 people died between May and mid-August 2016, 4 of them from gastrointestinal disorders. Representatives of the Ombudsman have launched an investigation into this, but so far it has been unsuccessful.

2. In the spring of 2016, in Kyiv, the police arrested a 25-year-old young man suffering from IV stage HIV and tortured him, after which he was taken, on court order, to the Kyiv PTDC. Feverish, slipping in and out of consciousness, he was provided with symptomatic treatment while his health continued to deteriorate. By April 2017 he became too weak to walk or speak. By the summer of 2017, he was unable to eat and remained in a vegetative state, but the court still denied the lawyer's request to change the restraining measure. The young man died in August 2017. The investigation into his death was initiated only after a complaint had been filed with the investigating judge concerning police inaction. However, responsibility for this investigation has been delegated from one body to another and nothing has actually been done about it.

3. In the summer of 2016, three inmates died in the course of 1.5 months at the Kachanivska Female Correctional Colony No. 54; an ambulance was called in all three cases but it was too late to save the women. One of these cases involved some unknown injection administered by a colony nurse. According to other inmates, at least three other women died in the past as a result of inadequate medical care provided by the same nurse. Special proceedings were initiated by the Ombudsman's Office in this regard, as well as a criminal investigation into medical malpractice, yet no one has been held accountable.

4. In May 2017, at the Temnivska PI No. 100 in Kharkiv Region, a Belarusian national died of cancer, with which he had been diagnosed only at the 4th stage of it, 3 weeks before his death.

5. In September 2017, three convicts died at the Specialized Tuberculosis Hospital of the Kherson Correctional Colony No. 61. Earlier each of them had applied for release on the grounds of a serious illness, but none lived long enough to see the outcome.

6. In 2018, at the Dnipro PTDC (PI No. 4), a convict who had a heart condition (thrombus in the heart, lower extremity ischemia with obstructed blood flow) that resulted in gangrene and sepsis was treated for purulent abscesses and phlegmons but did not undergo amputation, which caused his death. A criminal investigation into his death was launched at the lawyer's request, yet nothing is being done in this regard.

7. A man had been serving his sentence at the Dnipro PI No. 89 for robbery since 2014. He had a musculoskeletal disorder as well as tuberculosis. In 2015, he was granted the 2nd degree disability status, in 2016 – 1st degree disability; he had to use a wheelchair to move around and required constant care. In the spring of 2017, his lawyer filed a petition for the man's release on the grounds of his condition. By that time, the 1.8 m tall convict weighed 53 kg. At the time, special medical commissions that determine whether a person's condition is on the appropriate List<sup>52</sup> were not working due to the ongoing penitentiary healthcare reform. The first instance court, in defiance of the appellate court, denied the application twice. In April 2019 the patient died, 2 weeks before his release.

Convicts with mental issues have also died under circumstances that suggest unsatisfactory provision of healthcare to and generally poor treatment of sick convicts:

In October 2017, after being brought from the Lutsk PTDC in critical condition, a 25-year-old young man who had been sentenced to a 6 months' arrest died of toxic hepatitis. The convict was suffering from drug and alcohol addiction and often had to undergo inpatient psychiatric treatment prior to his detention. During his detention at the PTDC, the young man had an epileptic seizure; an ambulance was called and he was provided with emergency care, but then, despite his mental issues, he was still taken to the PTDC. The convict's health there sharply deteriorated – he was having hallucinations, having con-

<sup>52</sup> In June 2019, KHPG sent an open petition to the Minister of Justice concerning the absence of special medical commissions.

flicts with his cellmates, speaking something unintelligible, shouting, throwing himself at the walls and doors as well as exhibiting aggressive behaviour – he was having delirium tremens. The young man was then put in a 1.5 square meters solitary cell and given neuroleptic and sedative drugs. He died two days later. The criminal proceedings initiated after his death were closed by the investigator due to the absence of signs of a crime, against which the lawyer subsequently filed a complaint with the investigating judge;

In August 2018, one convict killed another at the Lukyanivskiy PTDC's medical unit in Kyiv, in a ward for people with mental disorders.

In the Appendix to para. 198 of its Report, the Government provides the following statistics on deaths in PIs (including the convicts who died in civilian hospitals), which is quite different from the one given above:

Statistic	2014	2015	2016	2017
Number of deaths in pre-trial detention facilities ( <i>number of deaths in civilian hospitals</i> )	127 (58)	103 (44)	126 (53)	164 (80)
Number of deaths in penal colonies ( <i>number of deaths in civilian hospitals</i> )	666 (174)	407 (130)	397 (132)	404 (164)
Total number of deaths	793	510	523	568

The Government claims that the number of deaths in PIs in 2015–2017 remained almost the same or was 40% lower than in 2014. However, if we take into account the fact that the number of convicts has decreased more than by half since 2014, the mortality rates in 2015–2017 actually increased by almost 40% according to the figures<sup>53</sup> that correspond to those of the Government in absolute terms:

Statistic	2003	2011	2012	2013	2014	2015	2016	2017	2019	2020
Deaths	824	1169	1,021	911	792	510	523	568	517	485
Per 1,000 convicts	4.30	7.59	6.94	7.18	10.79	7.29	8.66	9.95	9,78	9,73

<sup>53</sup> <http://ukrprison.org.ua/articles/1612352140>

Furthermore, even according to the Government's figures, the number of deaths in PTDCs went up in 2017 compared to 2014, and if we account for the decrease in the number of persons held at PTDCs, the mortality rates in PTDCs at least tripled.

The different SCES statistics on mortality rates can be further explained by the absence of publicly available official statistics on illnesses and deaths among the convicts, which had been available on the agency's official website in the past.

**VIOLATIONS OF THE RIGHT OF CONVICTS NOT TO BE SUBJECTED TO TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT FOUND BY THE ECtHR**

Almost all types of violations of the right of detainees to healthcare mentioned in this comment have been recognized by the ECtHR as violations of Article 3 ECHR in its judgements in cases against Ukraine. The number of persons recognized by the ECtHR as victims of Ukraine's violation of Article 3 ECHR in the context of inadequate healthcare provision to persons held in penitentiary facilities in 2019 is greater than that for the 5 previous years (2014–2018). The ECtHR has started consolidating applications concerning these issues into larger cases and considering them jointly without studying their specific circumstances. Thus, in ECtHR's judgement in the case *Korol and Others v. Ukraine* (no. 54503/08 and 7 others, judgement of 7 March 2019), the ECtHR examined 8 applications at the same time<sup>54</sup>.

Statistic/Year	2014	2015	2016	2017	2018	2019	2020
Number of judgements in cases against Ukraine where Ukraine was found to be in violation of the right not to be subjected to torture, cruel, inhuman or degrading treatment/number of victims	1/1	6/6	4/4	2/2	4/4	14/21	6/6

The 2019 judgements concern violations that took place in 2016–2017 and 2017–2018, that is, after the penitentiary healthcare reform.

<sup>54</sup> <http://hudoc.echr.coe.int/eng?i=001-191359>

It should also be noted that ever since its decision in the case *Nevmerzhitsky v. Ukraine* (decision on admissibility of 30/03/2004, application No. 54825/00), the ECtHR has consistently considered complaining of inadequate medical treatment to prosecuting authorities an ineffective domestic remedy<sup>55</sup>. Eventually the ECtHR decided that Ukraine lacks any effective mechanisms of protection against violations of the right to healthcare, including judicial ones. This is evidenced by numerous instances when PI administrations do not even comply with court orders to provide convicts with the medical care they require. Thus, an incident like this recently happened at the Kharkiv PTDC, where the medical service once again failed to comply with a court order to provide treatment to a convict with spine problems.

A lawyer once managed to convince an administrative court to declare the negligence of a PI's administration unlawful and to obligate it to provide proper treatment to his client. This, unfortunately, is a rare occurrence, and besides, the convict had already received required treatment by the time the court reached a decision.

In the summer of 2019, the Vilnyanskyi District Court of Zaporizhia Region ordered a medical examination following the request of a convict, who has HIV, hepatitis C and tuberculosis, to be released from the Kamyansk PI No. 101. However, so far the institution has failed to comply with the court order.

**CONCLUSIONS:**

1. The reform of the SCES healthcare system failed to improve the quality of prison healthcare, which in most PIs remains unsatisfactory or outright catastrophic due to the shortage of medical personnel, equipment and medicines.

2. With the PC and PTDC administrations no longer responsible for the health of prisoners and due to the complete absence of publicly available information on the activities of the SIHC and its structural units, it is now extremely difficult to challenge the inaction of prison medical personnel. There is also no publicly available public official data on illnesses among prisoners, or statistics on mortality.

<sup>55</sup> <http://hudoc.echr.coe.int/eng?i=001-61685>

3. The option for prisoners to undergo treatment at civilian hospitals provided for by the CEC is an illusion of choice for most of them due to the high cost of such treatment.

4. Prisoners in the final stages of terminal illnesses are neither released from incarceration nor provided with palliative care. Cases when someone is released on the grounds of a serious illness are extremely rare, and this usually happens the very end of the prisoner's life.

5. The epidemic of COVID-19 coronavirus showed huge shortcomings in the work of prison medical service in sanitary and anti-epidemic aspects.

### RECOMMENDATIONS:

- a) conduct a nationwide inspection of the activities of regional branches and separate subdivisions of the SIHC;
- b) make the prison medical system subordinate to the MoH and remove its ties to the SCES;
- c) carry out anti-epidemic measures required by law to prevent the spread of infectious diseases;
- d) regulate all organisational aspects of the activities of the prison medical service, including standards on the required number of medical personnel as well as on the sufficient amount of equipment and medicines;
- e) increase pay for medical personnel in order to bring more specialists into the prison healthcare system;
- f) make all statistics on the activities of the prison healthcare system publicly available;
- g) ensure access of prisoners to their health records;
- h) amend legislation on release of the prisoners with grave diseases from further serving of a conviction introducing the mandatory release on presence of a disease from the List of the ones approved by the MoH and the MoJ;
- i) remove the departmental bodies of sanitary and epidemiological supervision and charge the relevant subdivisions of MoH with functions of control and supervision.

## AMPUTATION OF THE PENITENTIARY HEALTHCARE<sup>1</sup>

...We have been writing about him since last October. About his foot, which was numb at first, then started going red, and then turned blue. We tried to get one very simple thing for A., a convict of the Kryvyi Rih correctional colony — to consult a vascular surgeon. And if necessary — surgery on diseased vessels.

Even then, in October, obliterating atherosclerosis reached the stage when it was necessary to act immediately. A toe was missing on one foot, other toes lost their sensitivity, the foot was going red. There was no doctor in the colony. The paramedic did what he could. However, he could do little: except to give antibiotics. The man was not taken to a specialized hospital. The administration of the colony answered: there were no funds.

In December the man finally got to the hospital. But the joy was short-lived.

— I turned to the court with the petition to oblige the responsible persons of the colony No. 80 to provide my client with the necessary treatment, — said then the convict's lawyer, Tamila Bepala. — Even before the court hearing, my client was taken to the hospital at the Dni-pro Penitentiary No. 4. Although he was recently treated there and it was said directly that no one would treat him there for free, and in general he needs to go to a civilian hospital. My client happily told me that the doctors began the treatment process, they were doing injections, administering drips, seemingly preparing him for a surgery that would allegedly take place in Dnipropetrovsk regional Mechnikov clinical hospital rather than in an institution of SCES. Hoping for a happy ending to this treatment story, I filed an application to be left without consideration of my application.

But the civilian hospital refused to hospitalize the convict. They said there were no places. And instead of looking for another hospital

<sup>1</sup> Author — Iryna Skachko.

where vascular surgery is performed, the man was forced to sign... “refusal of treatment due to inability to provide him with medical care”.

In February, the convict finally underwent surgery. No, unfortunately not the one he had been waiting for. Time was lost. To stop the gangrene, the man had five toes amputated. But the leg continues to redden. So this may not be the last amputation in A.’s life.

— I filed another petition with the court for the obligation to treat the convict, — says Tamila Bespala. — The meeting was scheduled for Friday, February 19, and last night he was again taken to the hospital at the Dnipro Penitentiary No. 4. It is unclear why, because he needs treatment, and he was made clear that no one will treat him, because it is expensive...

The state of health care in the penitentiary system, which is still being reformed, worries human rights activists. The long-term goals of this reform remain unclear. Medical care in places of detention has not become independent of the administrations of the institutions. This leads to many problems with resources, privacy, and trust in the doctors. Prison medical services do not cooperate with civilian hospitals. There is a lack of staff, equipment and medicines. Sick prisoners have to wait a long time for at least some medical care. Specialized treatment in civilian hospitals is available only to wealthy prisoners.

Last year, the Committee of Ministers of the Council of Europe called on the Ukrainian government to provide detailed information on measures taken to improve the level of medical care for detainees (see below).

<https://khpg.org/1608808835>

## **COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE: IMMEDIATE MEASURES ARE NEEDED TO IMPROVE MEDICAL CARE AND CONDITIONS IN UKRAINIAN PRISONS<sup>1</sup>**

On the day before, the Committee of Ministers of the Council of Europe considered<sup>2</sup> the situation with Ukraine’s implementation of the decisions of the European Court of Human Rights. There were 55 cases in several groups at once: Nevmerzhitsky group (application No. 54825/00), Yakovenko group (application No. 15825/06), Logvinenko group (application No. 13448/07), Isayev group (application No. 28827/02) and Melnik group (application No. 72286/01).

All these cases mainly concern inadequate medical care, inhuman and/or degrading treatment in places of detention. This includes overcrowding, poor detention conditions and malnutrition in pre-trial detention centres and colonies and during the convoy between detention facilities or courts. In addition, many of these cases concerned the lack of effective preventive and compensatory remedies. “We urge the Ukrainian authorities to take concrete steps to establish effective remedies without further delay”, — said a statement on the website of the European Court of Human Rights. The Ukrainian Government must have time to rectify the situation by November 30, 2021. This is the term set by the European Court of Human Rights in the Sukachov v. Ukraine pilot decision. In its decision, the CoE Committee of Ministers relied, inter alia, on joint comments from EPLN and the Kharkiv Human Rights Protection Group. In particular, these remarks

<sup>1</sup> Author — Iryna Skachko.

<sup>2</sup> Decision of the Committee of Ministers of the Council of Europe, URL: <https://khpg.org/1607085598>

concerned a group of cases grouped under the name Nevmerzhytsky v. Ukraine.

### A BIT OF HISTORY

The European Court of Human Rights ruled against Ukraine for such violations in 2005. We are talking about the case of Nevmerzhytsky<sup>3</sup>: in particular, in it the applicant complained about the unlawfulness and length of his detention, the conditions of his detention and the lack of adequate medical care. In addition, in Nevmerzhytsky v. Ukraine case, the Court found a violation due to the applicant's forced feeding. Over the next 15 years, there were so many such cases that over time, the judges simply merged them<sup>4</sup>, noting that "the Court has already considered similar situations". For example, last year the ECtHR ruled almost every month on cases of inadequate treatment in the penitentiary system.

— This is an incomprehensible number, — said Gennady Tokarev, then head of the Strategic Litigations Centre of the Kharkiv Human Rights Protection Group. — They are not even considered on the merits. If the complaint is not manifestly ill-founded, they simply refer to other court decisions.

The number of cases grew like a snow mound. The ECtHR has long recognized that inhuman treatment is, in fact, a common practice in many Ukrainian pre-trial detention centres, colonies and other places of detention. Finally, a pilot decision was made this year in Sukachov v. Ukraine case<sup>5</sup>, according to which our state must solve the problem of prison overcrowding, improve conditions of detention and introduce preventive and compensatory remedies. Then the judges of the European Court of Human Rights pointed out: "Despite the fact that positive steps have been taken in Ukraine in the framework of the current prison reform, the urgency of the problem of detention conditions has not diminished in recent years. The violations found in the present case were identified fourteen years after the Court's first decision on the condi-

<sup>3</sup> <https://khpg.org/1075312153>

<sup>4</sup> <https://khpg.org/1565953218>

<sup>5</sup> <https://khpg.org/1581010116>

tions of detention in Ukraine, despite the Government's obligation under Article 46 to take the necessary general and individual measures".

### WHAT IS A PILOT DECISION?

*The ECtHR's pilot decisions address systemic problems that lead to massive violations of the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular when the state's legal system is malfunctioning. The pilot decisions set out the measures to be taken by the offending State to remedy these systemic violations.*

### APPLICATIONS OF HUMAN RIGHTS ACTIVISTS AND THE GOVERNMENT'S RESPONSES

In October the Ukrainian government submitted to the Committee of Ministers of the Council of Europe an action plan to remedy the situation. In short, prisons are being repaired, food and detention conditions will be improved, "paid cells" in pre-trial detention centres are not discriminatory, as payment is voluntary, and they can be used to repair other cells. As for the medical field, according to the Ukrainian authorities, the system is staffed by 91%, there are enough anti-tuberculosis and antiretroviral drugs for everyone who needs them. In addition, the Ministry of Justice has prepared a draft resolution according to which detainees will be provided with emergency, specialized and palliative care, mainly in medical institutions that are not part of the Ministry of Justice.

In turn, on October 27 this year, EPLN and KHPG sent a joint statement to the Council of Europe. In particular, human rights activists noted that the slight reduction in the number of convicts and detainees, as well as the adoption of regulations aimed at reforming the penitentiary system, have not been able to radically change the situation: prisons remain overcrowded and detention conditions extremely poor.

Human rights activists assessed the government's strategy on probation as incomplete and insufficient to mobilize all levels of the penal system.

The initiative of the Ministry of Justice to close and sell some places of detention is considered inconsistent by the representatives of EPLN and

KHPG. After all, over the past two years, several institutions with normal conditions of detention have been closed. At the same time, a large number of institutions that are in a terrible state continue to operate.

*EPLN — is an international non-governmental organization with consultative status in the Council of Europe (CoE). It was founded in 2013 under French law to strengthen the judicial protection of detainees in Europe. It brings together 18 NGOs from 13 CoE countries. It has developed partnerships with leading European universities: CNRS, Universities of Florence, Paris (Sorbonne-1), Strasbourg, Dortmund, Madrid Complutense, Comillas, Utrecht, Leuven, Ghent.*

*EPLN works in three areas: 1) initiating research to support litigation and/or measuring the real impact of reforms; 2) strategic litigation at European level (in domestic courts and before the ECtHR) on cases with high potential for prison reform; 3) capacity building activities for non-governmental organizations and practitioners.*

Paid cells in the pre-trial detention centre were found by both human rights organizations to discriminate against financially disadvantaged prisoners. And we would note, they are the majority.

But the biggest concern is the state of health care in the penitentiary system, which is still being reformed. The long-term goals of this reform remain unclear. Medical care in places of imprisonment has not become independent of the administrations of the institutions. This leads to many problems with resources, privacy, and trust in the doctors. Prison medical services do not cooperate with civilian hospitals. There is a lack of staff, equipment and medicines. Sick prisoners have to wait a long time for at least some medical care. Specialized treatment in civilian hospitals is available only to wealthy prisoners. Human rights activists are also concerned about the level of access to psychiatric care, diagnosis and treatment of HIV, hepatitis, tuberculosis, and substitution therapy in prisons.

Because prison health care is not integrated into the overall health care system, penitentiaries are not included in the national plan of response to COVID-19. This affects the level of sanitation in prisons, as well as the ability to test patients and contact.

When deciding on the release of a prisoner due to a serious illness, national courts use outdated rules which require, in addition to the

medical commission's opinion, many other criteria to be taken into account: the prisoner's conduct, attitude to work, gravity of the offence for which the prisoner is serving his sentence.

The Ukrainian government has prepared a response to these remarks by human rights organizations. Ongoing efforts were made to improve the system for monitoring conditions of detention. Thus, work is underway on a bill on regular penitentiary inspections. In addition, the government mentioned a pilot project consisting of joint inspections of places of detention by the Human Rights Commissioner and the Prosecutor General's Office. Guidelines developed by the Ombudsman's Office for monitoring human rights in prisons will form the basis for such inquiries.

### **WHAT DID THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE NOTE?**

The Committee of Ministers notes with concern that no lasting decision has yet been taken to address the shortcomings of the Ukrainian prison system: overcrowding, poor material conditions of detention and transportation, inadequate medical care in pre-trial detention centres and penitentiaries.

#### **POOR DETENTION CONDITIONS**

The Council of Europe expects that the Government of Ukraine will inform the Committee of medium- and long-term plans to improve housing and nutrition in places of detention. Regarding the steps of the Ministry of Justice to develop paid services in pre-trial detention centres and prisons, the Committee of Ministers "called on the authorities to take measures to improve material conditions and nutrition, regardless of the financial contributions of detainees".

#### **OVERCROWDING OF THE PRISONS**

The Committee of Ministers called on the Ukrainian Government to continue working to minimize the use of pre-trial detention. In ad-

dition, the Council of Europe notes the need to raise the minimum standard of personal space for prisoners to ensure compliance with the requirements of the Convention on Human Rights.

### **IMPROPER MEDICAL CARE**

As the European Committee for the Prevention of Torture has repeatedly stated, “the situation in most institutions poses a significant threat to the health and lives of prisoners”. It is therefore not surprising that the Committee of Ministers has decided to monitor separately the measures taken by the Ukrainian government regarding the access of detainees to medical care. This will separate the examination of detention conditions cases from cases concerning medical matters. And this is logical: reforms in these areas involve different measures, participants and time frames.

In addition, the Committee of Ministers of the Council of Europe called on the Ukrainian government to provide detailed information on measures taken or envisaged to improve the level of medical care for detainees. At the same time, our government officials should take into account the “Statement of principles”<sup>6</sup> concerning the treatment of persons deprived of liberty, in the context of coronavirus disease pandemic, provided by the European Committee for the Prevention of Torture in March 2020.

### **THE LACK OF A SYSTEM OF NATIONAL REMEDIES**

“Reiterating the urgent need to establish appropriate safeguards and remedies”, The Committee of Ministers called on the Ukrainian authorities to take concrete steps without further delay to introduce effective remedies.

*<https://khpg.org/1607117210>*

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<sup>6</sup> <https://khpg.org/1584965883>

## **FIVE YEARS OF THE PENITENTIARY HEALTHCARE REFORM: A SAD ANNIVERSARY<sup>1</sup>**

The penitentiary reform, according to the passport approved by the Ministry of Justice, began in 2017 and was supposed to end this year. At least, that’s what they say. Since even searching for the Passport itself in the open access is out of the question. The pride of the Ministry of Justice, the document developed in a “unique schematic format”, thanks to which we would be able to compare the planned with the implemented, is apparently classified. From what we were able to discover in free access in the network, without sending the information requests to various institutions, there are several old screens from the Twitter account of the Ministry of Justice.

It would be nice to see the specifics: the planned funding, procurements, real means of improvement of the situation. But we only have “column 2.4” in the pretty presentation. It directly concerns penitentiary healthcare — the general strategic goals, nothing specific. So, according to the Passport of the penitentiary reform, by this moment the following changes were to be implemented in the system:

- the right (of the prisoners) to medical assistance is regulated according to the international standards;
- the patient-oriented model of the health-care system is implemented;
- the new medical vertical integrated in the general national health care system is created;
- the material and technical base is improved and the proper conditions for efficient provision of medical assistance are created;
- compliance of medical staff with national professional and qualification requirements is ensured.

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<sup>1</sup> Author is Iryna Skachko.

Spoiler: according to our observations, none of those noble goals is reached.

We should remind here that at first the health care institutions of SCES were planned to be transferred to the Ministry of Health, which would be logical. But later that idea was lost somewhere. The prison health care was directly subordinated to the Ministry of Justice. After that the numerous medical units lost the financial support from the institutions in which they worked (in the penal institutions where economic activities were conducted, such assistance was significant for medical units), and did not enter the general national health care system.

### THE HOSPITALS DANGEROUS FOR LIFE

Two years ago the monitoring group of KHPG visited Lviv General Hospital No. 19 of the MD of HC of SCES. This is where oncology prisoners from all Ukrainian institutions are transported. The detention conditions for the patients back then were simply appalling: the cells had mould, exposed wires, shredded mattresses, broken windows, the “hole in the floor” toilets separated by dirty rags. Back then it was possible to say that it was a transitional stage of the reform and it would improve.

It did not improve. August 2021. Monitors *visit* the hospital again. What do they see? The same mould, cockroaches, exposed wires and boilers in plastic buckets.

Cancer surgeries are performed at the hospital, but relatives of convicts are often forced to buy chemotherapy drugs at their own expense, and radiation therapy has not been used since the early 2000s. The institution does not have its own CT or MRT machine, say the monitors, and conducting such studies in MoH hospitals is complicated by a lack of funding and sometimes the reluctance of the MoH hospitals to interact with penitentiary institutions. We would reiterate that we are talking about the hospital which specializes in oncology. Without their own CT, MRT and radiation therapy.

Human rights defenders *visited* the Dnipro Inter-regional General Hospital No. 4 on 10 November of this year. The detention conditions of the patients are also appalling here. The same sockets falling out of the walls, posing a fire danger, dirt, unsanitary conditions. It is unclear how the people are even treated here: “Dozens of surgeons work at the

general hospital, however, the institution does not have the permission for the use of narcotic painkillers. Thus, the surgeries are not conducted, and the operating room was re-equipped as an isolation ward. Only the basic surgeries that do not require the painkillers are conducted. The institution does not even have a full-time anaesthesiologist. Thus, it is unclear why the wages are paid to dozens of surgeons. The convicts only have a chance of undergoing a surgery in case of their transfer to the “civilian” hospitals of the Ministry of Health, to which only the convicts with money or relatives willing to pay for their treatment can get. Other convicts are forced to die in the general hospital”. **It is obvious that the introduction of the “patient-oriented model of the health care system” announced in the Passport failed in the SCES. Same as the “compliance of the medical staff with the national professional and qualification requirements”.**

### EUROPEAN-STYLE TREATMENT

The quality of the reform of the entire penitentiary system can be judged by individual stories of real people. Sick people who have to fight for the right to medical care.

We have written about the prisoner of Kryvyi Rih penal colony No. 80 three times already. The first material was published a year ago and was titled “*Saving A’s foot*”. It was not saved. Despite the publicity and the active position of the lawyer.

At the beginning of last year, A. appealed to the Centre for Strategic Protection: he was not treated, and documents on his release for health reasons were not submitted to the court. The list of the diagnoses is long: HIV, chronic hepatitis, the third group of visual disability. But most of all at that time he suffered from obliterating atherosclerosis of the vessels of the lower extremities — his feet ached, were numb, stained. The man had already lost one finger at that time, so he was afraid that others would also be amputated.

In order to receive the medical information about her client, the lawyer in three months had to send several requests to the medical unit, to the branch of the MD “HC of SCES” in Dnipropetrovsk and Donetsk regions, to the inter-regional hospital in SI “Dnipro penal colony No. 4”. Without effect. The lawyer filed a complaint about the crimes

of the responsible persons of these institutions with the Prosecutor's Office of Dnipropetrovsk region.

– I applied to the court with a petition about the obligation of the responsible persons of the colony № 80 to provide the necessary treatment to my client, — said then the lawyer, Tamila Bepala. — Even before appointing the court hearing my client was brought to the hospital in Dnipro penal institution No. 4. Although he was recently treated there and he was directly told that nobody will treat him there for free and he needs to be placed in a civilian hospital. My client happily notified me that the doctors started treating him, making the injections, administering drips, allegedly preparing him for the surgery which will allegedly take place not in an institution of SCES, but in the Dnipropetrovsk Regional Mechnikov Clinical Hospital. Hoping for the happy outcome of this story concerning the treatment, I filed the application to court about leaving my previous application without consideration.

10 days after the happy call the client called the lawyer again. The doctor notified the prisoner that “his treatment was finished with the injections, but there can be no toying around, because it could lead to the loss of feet”. Dnipropetrovsk Regional Mechnikov Clinical Hospital refused to accept the prisoner for the surgery. They said, there were no available places. Instead of searching for another hospital where vascular operations are performed, A. was forced to sign... “Refusal of treatment due to inability to provide him with medical care”.

Meanwhile, the court hearings on A.'s release were postponed for two months due to his health condition. A.'s toes started going black. The lawyer added the petition on providing medical assistance to her client. The result was the amputation. **This story is a great illustration of how HC of SCES adheres to the right of the prisoners to health care according to the international standards.**

By the way, the court did not release A. on health grounds.

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In order for a sick prisoner to be treated, a lawyer needs his client's medical records. But receiving it from medical institutions in the penitentiary system often turns into a real quest. They do not answer inquiries, refer to medical secrecy, “football” the requests to other institutions. One could wait months to receive the necessary documents.

Sometimes nothing happens without a complaint and a statement to law enforcement bodies and the court.

Moreover, sometimes the administration of the institution simply blocks the communication between the lawyer and the sick client. It happened, for example, this year in Dnipro colony No. 89, where a fourth-degree HIV and tuberculosis patient, N., who was entitled to release due to a serious illness, turned to a lawyer. In August, the lawyer sent the man the documents to sign, necessary for the case. N. never received the letter. Neither did he receive the next few letters. Only after the lawyer's complaint to the South-Eastern Penitentiary Department did N. receive his correspondence.

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A prisoner of Vinnytsia colony No. 86 was almost left without legal assistance by deception. I. is a bed-ridden patient: he suffered a stroke, a half of his body is paralyzed, he is bed-bound. Release on the grounds of health? No way! It is almost a detective story.

He turned to the KHPG for protection. The day before the lawyer's request for his release, I. suddenly refused her services: the colony's management promised to do it alone. However, provided that he does not cooperate with the defender.

In a year the monitoring group of KHPG visited the colony. The human rights activists inquired about the fate of the former client. It turned out that all this time (more than a year) the patient was lying in the basement, he was strictly forbidden to contact KHPG. **Apparently, this is an example of the appropriate conditions for effective medical care activities stated in the Passport of Reforms.**

After the monitors' visit, I. was allowed to communicate with lawyers again. During the year in the basement, the number of his diagnoses increased, so the lawyer began to fight for his early release due to ill health and went to court.

In the meantime, I. was transferred to five different institutions. He had another stroke. The court hearings were postponed for more than six months. And really, where to hurry? During one of the meetings, when I. was carried on a blanket to the video conference room, he was simply dropped on the stairs between the floors.

Despite all the reassurances and the opinion of the consultative medical panel, Vinnytsia city court... refused to release I. The Court of Appeal upheld the decision. Now I. is in the Vinnytsia correctional colony. He was not even transferred to a specialized institution for the disabled.

The system humiliates the diseased. Often the medical secrecy concerns... the patients themselves: ***the prisoners are not told about their real diagnoses***. The lawyers also have to fight for that.

### WHAT IS WRONG WITH THE SYSTEM?

*In general, human rights activists consider the problems of penitentiary healthcare to be the most acute:*

- *“Imaginary independence” of health workers from the administration of the colonies (health care facilities are located on the territory of the relevant institutions, and therefore should be subject to the administration on compliance with the regime, supervision over the prisoners and security, their leaders are present at operational meetings held by the heads of the institutions, they must apply to the administration of the institutions with requests for the export of convicts to civilian health care facilities, the use of vehicles for this purpose);*
- *insufficient medical staffing;*
- *the lack of medicines, low quality of medical treatment;*
- *non-transparency of the work of the Health Centre;*
- *low quality of medical documentation;*
- *impossibility of early release even for the seriously diseased convicts.*

Last week StateWatch (a non-governmental organization that approves the principles of Good Governance in the work of the authorities) published the results of the audit of the efficiency of the use of state budget funds sent to the state institution “Health Centre of the State Criminal Executive Service of Ukraine” for the period 2018 — the first half of 2020, conducted by the Accounting Chamber. **The opinion of the StateWatch — the reform of the penitentiary healthcare failed.**

In general, it turned out that the audit is pretty hard to perform. “The lack of approved plans of implementation of the Passport of penitentiary system and probation reforms with indication of planned indi-

cators makes it impossible to control the full and timely manner of carrying out of measures of HC of SCES entrusted to it by the Ministry of Justice”, — state the auditors. The fact is that the plan of implementation of the Passport of Penitentiary System and Probation Reforms with the indication of targets was not officially approved by the Ministry of Justice, and information on the implementation of reforms within the competence of the HC of SCES was provided to the head of the Ministry of Justice...in the form of the presentation with descriptive part.

The auditors received more or less accurate data only as of August 2019. Apparently, it was then that the HC of SCES last reported on the state of implementation of the reform.

In addition, the auditors of the Accounting Chamber paid their attention to the signs of corruption in the procurement of medicines. “Health Centre conducted the tender on procurement of hepatitis medicines by increased prices comparing with the Register of Wholesale Prices for Medicines of the Ministry of Health. The need for procurement was overstated by UAH 53.7 million”, — states the report of the StateWatch.

### CAN THIS BE TREATED?

It cannot be said that doctors working in the penitentiary system do not treat anyone. There are recoveries, there are lives saved. But they are lost against the general background of systematic human rights violations, the lack of medicines and equipment, the fatigue and indifference of staff forced to work in such conditions.

“State Criminal-Executive Service cannot cardinaly change the conditions of detention with that severely lacking budget funding that is provided. The prison medicine system needs to be radically reformed and subordinated to the Ministry of Health, without which talking about any improvement in medical services in penitentiary institutions is out of the question”, — believes Yevgeniy Zakharov, the director of Kharkiv Human Rights Protection Group.

However, the process of transition of the Health Centre of SCES from the Ministry of Justice to the Ministry of Health has slowed down in the pre-pandemic times. Not only are both ministries now actively reforming, but the fight against COVID-19 is also diverting significant

resources from the Ministry of Health. However, it is absolutely necessary to change the system. And the pandemic is one of the reasons. Prisoners also suffer from coronavirus. Human rights activists have many questions about how prison medicine fights the spread of the disease. They complain about insufficient testing, lack of protective equipment, drugs, premises for isolation, refusal to conduct temperature screening.

In October, the Verkhovna Rada **registered** the bill No. 6141, the authors of which suggest to provide convicts with the opportunity to be treated in Ministry of Health facilities and use the services of family doctors.

— An unrealistic idea, in my opinion, — believes Yevgeniy Zakharov. — many colonies do not even have access to internet, and in pre-trial detention centres the E-health cannot be implemented at all. In fact, the decision to transfer prison medicine to the Ministry of Health seems to have been approved in principle. But only in words, no real steps are being taken. The authorities do not have the will to decide anything. The working group set up by the relevant parliamentary health committee met several times before the parliamentary holidays, but never in autumn. Meanwhile, in the draft budget for next year, funds for penitentiary healthcare are planned for the Ministry of Justice. They will not be enough again. We are preparing the amendments to the regulatory acts on transfer of the HC of SCES to the Ministry of Health, based on the idea of creating a separate relevant unit in the Ministry of Health, headed by the Deputy Minister. In any case, the situation is critical. We need to talk about it, write about it, change something.

We would **recall** that in December last year the Cabinet of Ministers of the Council of Europe **considered** the situation with Ukraine's implementation of the European Court of Human Rights' decisions on inadequate medical care, inhuman and (or) degrading treatment in places of detention. The Committee of Ministers noted with concern that a lasting decision had not yet been taken to address the shortcomings of the Ukrainian prison system: overcrowding, poor material conditions of detention and transportation, inadequate medical care in remand centres and penitentiaries. In addition, the Committee of Ministers of the Council of Europe has decided to conduct a separate monitoring of measures taken by the government regarding access to health care for prisoners.

## CANCER TUMOUR OF THE ALREADY SICK PRISON HEALTHCARE<sup>1</sup>

As we had already written, the reform of the prison health care system complicated the situation with provision of medical assistance to the convicts. Of course, there are objective factors that have been discussed — insufficient funding for prison medicine (50%), the need to repair medical units (30% provided), lack of equipment, 70% of which is obsolete — but they are not the main problem. Given all these objective factors, the main problem is the attitude of prison doctors towards the health of prisoners. The results of monitoring visits of our organization show that in almost every institution there is an inadequate quality of medical care, and often its complete absence, and it is always a subject of complaints from prisoners. Patients have been waiting for weeks for a doctor's examination, without which it is impossible to talk about the prescription of treatment, they are offered to buy drugs at their own expense — both for surgery and for conservative treatment.

Unfortunately, even such a description does not sufficiently reflect the appalling situation with medical care for convicts in the Dnipro Penitentiary Institution No. 4. On November 10, 2021, the KHPPG monitoring group visited this institution (see the report on the visit<sup>2</sup>), where it checked, in particular, the multidisciplinary hospital and the medical unit.

Dozens of surgeons work in the multidisciplinary hospital, but the institution does not have a permit to use narcotic painkillers. Therefore, surgeries are not carried out, and the operating room is converted into an isolation ward. Only primitive surgeries are performed that do not require anaesthesia. The institution does not even have a full-time anaesthesiologist. So, it is unclear why dozens of surgeons are paid.

<sup>1</sup> Authors — Maxim Revyakin, Anna Ovdienko, Pavlo Shvab.

<sup>2</sup> <https://khpg.org/1608809742>

Convicts have a chance for surgery only if they are taken to “civilian” hospitals of the Ministry of Health, which can only admit those convicts who have money or relatives who are able to pay for transportation and treatment. Other convicts are forced to die within the walls of a multidisciplinary hospital.

According to the official information on the website of the Health Centre of the State Criminal Executive Service of Ukraine in Dnipropetrovsk and Donetsk regions, Dnipro Multidisciplinary Hospital No. 4 and Dnipro City Medical Unit No. 4 operate on the basis of the Dnipro institution. That is, officially there are two different medical institutions. However, during the conversation with the doctors it turned out that the de facto head of the medical unit reports to the head of the multidisciplinary hospital, the doctors of both departments sit in the same room and go to the same meetings. In reality, the city medical unit is not independent, but is directly subordinated to the structural unit of a multidisciplinary hospital. Therefore, in the future there will be no separation of hospital and medical unit, but their identification.

When the monitors were on their way to the medical unit’s inpatient department, the accompanying administration representative contacted the head of the medical unit to meet the monitors and provide current information. However, the head of the medical unit flatly refused to communicate with the monitors and provide any information. After that, the monitors insisted on a meeting with the head of the medical unit. A representative of the administration escorted the monitors to his office. A meeting of doctors was held in the head’s office at that time, those doctors refused to introduce themselves, talk and give any information without the permission of the branch management (thus grossly violating Article 24 of the Criminal Executive Code of Ukraine), including medical records of patients who complained about failure to provide adequate medical care and who consented to the monitors’ access to such information. The monitors’ arguments that doctors are officials and should act in accordance with the law, rather than management’s instructions, were ignored.

After several phone calls to the “supervisors”, the doctors began to consider whether they should provide information to monitors or not. After much debate and deliberation, the doctors initially agreed to provide information and documents, but after the monitors began reviewing the documents, they began hysterically snatching previously

submitted journals and said they had to wait for permission from management. The monitors decided not to wait for the final decision, because they lost too much time in vain.

During the conversation, the doctors demonstrated a complete lack of knowledge of the relevant legislation. In the medical unit, there was also a lack of some documentation envisioned by the Procedure for the organization of medical care for convicts. It seems that this is the first time doctors have heard about such documentation.

Later, the monitors visited the hospital and talked to the patients. The vast majority of patients complained about the lack of diagnosis, qualified staff, medication and appalling conditions. The convicts reported that the doctors of the institution did not monitor the condition of their patients. They do not make daily rounds and do not even come at the request of convicts. It is impossible to get to the doctor. Complaints to the hospital management are inefficient. The convicts see only the junior medical staff, and they are reluctant to come. If a convict needs additional examinations that cannot be performed within the institution, such examinations are either not performed at all or are carried out with a huge delay.

A striking example of the complete lack of treatment are the cases of two seriously ill convicts L. and M., who look like they are in critical condition and barely speak — for six months doctors have not diagnosed them and do not conduct the necessary medical examinations.

The monitors also spoke to coronavirus patients who reported that they were being treated exclusively with paracetamol. Some said that they received a thermometer only two weeks after hospitalization.

The question arises, why would one need such a hospital and such doctors, if there is no medicine, no treatment, no examinations, no medical consultations, no qualified specialists, and the suffering of convicts can only be stopped by death?

*<https://khp.org/1608809743>*

## BRIEF DESCRIPTION OF 48 CASES IN WHICH PRISONERS RECEIVED LEGAL ASSISTANCE IN 2021 TO PROTECT THEIR MEDICAL RIGHTS<sup>1</sup>

### 22 ONGOING CASES

#### ***B-yan case***

Mr B. asked for legal assistance from the lawyer. He said he was suffering from a number of serious illnesses, including stage 4 HIV. Based on his illness, he is entitled to release from serving his sentence. He is currently serving his sentence in Vinnytsia Correctional Colony No. 81.

On August 5 and September 19, 2020, the lawyer applied to the Vinnytsia Correctional Facility for medical documents. However, she was not answered. Then, on October 13, 2020, the lawyer sent a complaint to the Vinnytsia Region Prosecutor's Office. After that, the penal colony still provided medical documents.

On November 13, 2020, the lawyer applied to the Vinnytsia Correctional Colony No. 81 with a request to organize a medical advisory commission for Mr. B. However, such a statement was denied.

On December 17, 2020, the lawyer sent a petition to the Vinnytsia City Court of the Vinnytsia Region to release B. due to illness. The court hearing was scheduled for December 23, 2020, but did not take place due to the failure to bring B. to court.

Several more court hearings were scheduled after that, however, none of them took place for various reasons. The next court hearing is scheduled for December 23, 2021. The hearings were postponed more than five times due to the judge's leave, the judge's stay in the delibera-

<sup>1</sup> Authors are Tamila Bospala, Hanna Ovdienko, Maksym Reviakin, Gennadiy Tokarev and Yevgeniy Zakharov.

tion room and other reasons not depending on the defence. To date, B.'s condition is rapidly deteriorating, in particular. In mid-December 2021 he was diagnosed with severe respiratory disease.

#### ***K-ets's case***

Mr K asked the SLC lawyer to provide him with legal assistance because he was suffering from a severe disease — stage 4 HIV. He noted that he was not being given proper medical treatment because he could not get adequate anti-retroviral therapy.

On 28 October 2019, the lawyer requested the Strizhavskaia penal colony No. 86 regarding the available medical documents. On 6 November 2019, the colony reported that K was suffering from HIV but indicated the first stage of the disease. At the same time, according to the copies of the submitted laboratory studies, the level of CD4 cells was 46 cells, which corresponds to 4 stages of the disease.

On 19 November 2019, a lawyer filed a motion to the Vinnytsia City Court on the K's release from punishment related with a serious illness. In doing so, she also requested a medical advisory panel to determine Mr. K.'s health state.

On 16 January 2020, 26 February 2020, 12 April 2020 and 10 May 2020 the court hearings were postponed due to the judge's illness, the lack of electricity or other technical problems.

On 9 July 2020, the Vinnytsia City Court denied the lawyer's motion to release Mr. K. due to a serious illness. At the same time, the court also refused to hold a medical advisory commission to establish the severity of the illness, because, in the court's opinion, it was already clear that K. was not subject to dismissal.

The lawyer disagreed with the court's decision and prepared an appeal.

On 25 September 2020, the Vinnytsia Court of Appeal also denied the complaint, stating that the lawyer should apply for a medical advisory commission not to the court, but directly to the colony.

The lawyer applied to the colony for a medical advisory commission, but the colony refused to do so. The lawyer plans to file a complaint against the actions of the institution to the administrative court.

However, K-ets later refused to file an administrative lawsuit.

Instead, he offered to apply to the court again for release due to ill health.

In August 2021 K. was diagnosed with tuberculosis. As a result, he was urgently transferred to another penitentiary institution, the Dni-pro Correctional Colony No. 89. His health was rapidly deteriorating, and the drugs he was prescribed caused severe side effects. At the same time, K. decided to refuse medical care. The lawyer persuaded K. not to refuse treatment and asked the Health Centre to change his treatment plan. Unfortunately, the lawyer was denied, stating that the treatment scheme in K.'s case was the only one possible. However, K.'s condition improved during the examination, so he continues to take the necessary drugs. Meanwhile, K. has not yet been diagnosed with HIV — 4 clinical stage, which he actually has. However, the administration of the penitentiary institution promises to diagnose him in the near future.

#### **N-m case**

Mr. N-m was sentenced to life imprisonment in the Ivano-Frankivsk Penitentiary Facility No. 1. He asked the SLC lawyer to file a motion for his release from punishment due to his serious illness. He noted that he had stage 4 HIV and other diseases.

The lawyer sent N-m all the necessary documents for signing, and after receiving them she filed a lawyer's request to the Ivano-Frankivsk Penitentiary Institution. However, the SLC lawyer did not receive a response to her request within the time limit set by the law, so on 15 June 2020, the SLC lawyer had to re-apply to the institution with a lawyer's request.

On July 10, 2020, the lawyer filed a complaint about the inaction of the correctional colony to the Prosecutor's Office of Ivano-Frankivsk Region and the Interregional Department for the Execution of Sentences. After that, about a week later, the lawyer finally received an answer to her request, although it was provided with medical documents not in full.

On July 20, 2020, the lawyer applied to the Ivano-Frankivsk City Court of the Ivano-Frankivsk Region with a request to release Mr. N. due to illness. However, some time after such a motion, Mr. N. was sent for treatment to the Stryzhava Correctional Colony No. 86. Accordingly, the court ruled that Mr. N. should be removed from his jurisdiction and sent a lawyer's motion to the Vinnytsia District Court of Vinnytsia Oblast.

On August 15, 2020, the Vinnytsia District Court opened proceedings on a motion to release N. from serving his sentence due to illness.

However, during this time Mr. N. had already been discharged from the hospital at the Stryzhavska Correctional Colony and sent back to the Ivano-Frankivsk Penitentiary.

Therefore, the Vinnytsia District Court of the Vinnytsia Region again ruled on the violation of jurisdiction and returned the case to the Ivano-Frankivsk City Court.

On October 20, 2020, the Ivano-Frankivsk City Court reopened the proceedings at the motion of a lawyer to release N. from serving his sentence due to illness. The court hearing was scheduled for November 21, 2020, but did not take place.

The next court hearing is scheduled for January 17, 2021, but it did not take place due to the absence of H-ni in the penitentiary institution. After that, the next court hearing was scheduled for February 16, 2021.

On 16 February 2021, during a court hearing, it became known that being in the Stryzhava correctional colony for a medical-consultative commission, the applicant had refused to undergo any medical treatment, including diagnostics. Accordingly, it turned out to be impossible for him to hold a medical advisory commission. H himself could not explain anything during the meeting. Therefore, the court denied the lawyer's request for N.'s release.

Later, during N.'s confidential conversation, it turned out that there was a misunderstanding. In particular, N. did not refuse to hold a medical advisory commission, but refused treatment. More precisely, he believed that he was refusing treatment. Upon learning of this, the lawyer decided to re-apply to the court to release N. due to a serious illness.

On 1 July 2021 a lawyer again filed a petition to release N. from serving his sentence for health reasons. However, the court refused to initiate proceedings, citing the fact that such a request had already been considered earlier. The lawyer appealed against the decision in the appellate court, but the latter has not yet scheduled a trial.

#### **Py-k. case**

On July 31, 2020, P.'s mother filed a complaint with the SLC about non-provision of medical care and failure of the responsible persons to submit documents to the court regarding his release from serving a sentence due to his health condition, despite a number of indications: in early January 2020 the first symptoms of cancer began, but doctors of

the Medical Department of the State Institution “Vinnytska Institution of the Execution of sentences No. 12” did not take any action for examination and treatment, instead, he was diagnosed with pneumonia, which was treated with drips for three weeks in a row after which the condition of Mr. P. deteriorated: from shortness of breath to the inability to move independently, all this was accompanied by excruciating pain, first in the side and then all over the body. Nevertheless, no additional surveys were conducted. Only on July 29, 2020, on the initiative and at the expense of P.’s mother, he was taken to a private clinic, where he was diagnosed with stage 4 lung cancer. For a long time his mother was refused even this. In addition, almost all medicines were paid for by P.’s mother herself.

On the same day, P. himself contacted the lawyer with a similar complaint.

On August 1, 2020, the lawyer filed a motion with the court for release from serving the sentence due to P.’s health, and the court hearing was scheduled for August 13, 2020.

On August 5, 2020, P. was transferred to the interregional multidisciplinary hospital at the Lviv PI No. 19.

On 05.08.2020, lawyer’s inquiries were sent to the interregional multidisciplinary hospital at the Lviv PI No. 19, to the Branch of the State Institution “The Centre of Health Care of the State Criminal Executive Service” in Vinnytska and Lvivska regions concerning the treatment and the condition of health.

On August 6, 2020, the lawyer sent applications for measures to treat P. to the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, Head of the Department for Supervision of Observance of Laws in Execution of Judgments in Criminal Proceedings, Other Coercive Measures in Places of Imprisonment, and Probation and to the Vinnytsia region Prosecutor’s Office.

On August 13, 2020, the lawyer filed a motion with the court to leave the motion for parole without consideration due to the death of the client.

On August 18, 2020, P.’s mother applied to the SLC with a request to represent her interests as a victim in the criminal proceedings over the death of her son as a result of failure to provide him with medical care.

On August 19, 2020, the lawyer sent a criminal complaint to the Vinnytsia region Prosecutor’s Office and the Vinnytsia Local Prosecutor’s Office.

On September 18, 2020, the lawyer sent a motion for procedural actions to the investigator and attachment of documents.

On 13.10.2020 and 17.12.2020 the lawyer sent motions for procedural actions within the framework of open criminal proceedings.

On 12.02.2021 and 23.04.2021 the lawyer sent a request for procedural actions in the framework of open criminal proceedings.

### ***P-in’s case***

Mr. P. turned to a lawyer for legal assistance. He said he was suffering from a number of serious illnesses, including cancer (melanoma). Based on his illness, he is entitled to release from serving his sentence.

At the time of his appeal to his lawyer, Mr. P. was in the Zamkova Correctional Facility. Therefore, the lawyer sent him all the necessary documents to the address of this institution. However, Mr. P. never received a letter from his lawyer.

Therefore, on September 23, October 14, and November 11, 2020, the lawyer filed complaints about obstacles in communication with the client with the Khmelnytsky region Prosecutor’s Office, the Central-Western Interregional Department for the Execution of Sentences, and the Ministry of Justice. In response, the authorities reported that no letters had allegedly been received from P.’s lawyer.

However, subsequently the following letter of December 1, 2020 was delivered to P.

After that, the lawyer sent a request to the Health Center of the State Penitentiary Service of Ukraine to bring P. for treatment. Such a request was granted. To date, P. continues to be in treatment.

After repeated complaints from the lawyer, a number of procedures were organized for P., except for radiation therapy, which cannot be performed in a penitentiary institution. As for P.’s release due to illness, it turned out that his medical records established not 4 but 3 stage of cancer, which does not allow to discuss the release.

### ***Case of Vo-v***

V. is serving his punishment in SI “Kamenka correctional colony (No. 101)”.

V. turned to the Strategic litigations centre of KHPG (hereafter – SLC) in late December 2020 complaining about the failure to provide him the medical assistance and that the responsible persons did not provide the court with the documents about his release from serving the punishment due to health, despite a number of indications for this – mental and behavioural disorders due to a combination of the use of opioids, cannabinoids, alcohol, episodic use of psychoactive substances, the presence of an addiction syndrome, persistent residual effects of closed craniocerebral trauma with cephalgic syndrome, arachnoid cyst with frequent epileptic seizures, chronic hepatitis C (HCV +), hepatosis, chronic pancreatitis, progressing loss of vision.

On 02.02.2021 and 26.02.2021 the lawyer's requests were sent to the Branch of the state institution "Health Centre of the SCES of Ukraine" in Kyiv city and Kyiv region and to Kyiv pre-trial detention centre concerning the state of health and treatment of Mr. V., where the latter remained for unknown reasons. Then V. was transferred to Dnipro general hospital No. 4.

On 30.03.2021 the lawyer filed a petition with the court to release V. from serving the sentence for health reasons.

On 07.04.2021, 29.04.2021, 19.05.2021, 01.06.2021, 14.06.2021 the court hearings were postponed due to the lack of a conclusion of the medical advisory commission on V.'s state of health and due to the fact that the colony ignored the letters and video conferences, each time the judge asked the lawyer to send a petition in another court – at V.'s location.

During the hearing on 01.07.2021, at the request of the judge, the lawyer filed a motion to leave the application without consideration.

On 14.07.2021 the lawyer filed a new petition for V.'s release to the Volnyanskiy District Court of the Zaporizhzhia region.

On 19.08.2021 the judge granted the lawyer's petition regarding the demand and submission of the conclusion of the medical advisory commission on the state of health to the court .

The consideration of the case continues.

### **Case of G-ch**

In May 2021 Mr. G-ch contacted a lawyer and stated that for a long time he suffered from inguinal hernia. He spent more than nine months in Chernihiv pre-trial detention centre, where he was not provided with

medical assistance. Moreover, they refused to take him to the hospital for a planned surgery due to the coronavirus pandemic in Ukraine. The Borznyanskiy District Court of the Chernihiv region several times ruled on the need for urgent medical examination and treatment of G-ch, but the SIZO never complied. Later, the Borznyanskiy District Court found that in G-ch's case there was a clear violation of his medical rights and, in addition, non-enforcement of court decisions concerning him.

Therefore, G-ch turned to a lawyer for non-pecuniary damages suffered due to unlawful actions of the SIZO. The lawyer prepared a civil claim against the Chernihiv pre-trial detention centre and the Health Centre of the State Criminal Executive Service of Ukraine.

On 8 August 2021 G-ch filed a claim, prepared by a lawyer, to the Novozavodsky District Court of Chernihiv.

On 10 September 2021 Novozavodsky District Court of Chernihiv initiated the proceedings in the case.

On 12 October 2021 the court started the consideration of the case on merits, ending the preparation stage of the consideration.

Several court hearings were held, which were not attended by representatives of the state authorities. The next court hearing is scheduled for 12 November 2021.

To date, the claim is pending.

### **The case of Z-tyh**

In October 2020, the lawyer was approached by client Z., who was serving a sentence in Dnepropetrovsk correctional colony No. 89. He said that he was suffering from a number of serious diseases, including HIV and related diseases.

On 19 October 2020 the lawyer sent the request to the colony in order to obtain the medical documents confirming her client's diseases.

On 28 October 2020 the lawyer received a reply with accompanying documents indicating Z.'s medical diagnoses.

In November 2020, the lawyer filed a petition for Z.'s release to the Leninsky District Court of the city of Dnipro. Together with the petition, the lawyer also requested the appointment of a medical advisory commission for Z.

On 12 July 2021 Z. was transferred to the Pokrovske correctional colony in the Kharkiv region (for convicts with tuberculosis) due to the fact that his state of health had changed and he needed a different

treatment. In addition, upon arrival at Pokrovske CC, it turned out that Z. was not suitable for any of the proposed treatment plans, and he was transferred to palliative treatment.

Meanwhile, on 2 August 2021, the Leninsky District Court of the city of Dnipro closed the proceedings on the release of Z., arguing that Z. had dropped out of its territorial jurisdiction. The lawyer and Z. decided not to challenge such a court decision on appeal, but to appeal to the court in Balakleya, at Z.'s new place of residence, to consider the case for the release due to illness.

To date, the consideration of the case continues.

### **Case of Iv-ko**

I. is serving his sentence in SI "Vinnytsia correctional colony No. 86". I. contacted KHPG for the first time in 2019, he stated about a stroke, paralysis of a half of his body and that he was bed-ridden.

The lawyer and the doctor were not allowed to see I. in the colony, but his medical documentation was provided.

The day before sending the petition to the court to release I. from serving the sentence for health reasons, I. told the lawyer that he was refusing her services, since the colony administration promised to independently submit the corresponding petition, provided that he refused the services of a KHPG lawyer.

In November 2020, the KHPG monitors, being in Vinnytsia CC No. 86, at the request of a lawyer, asked whether Mr. I. was released for health reasons. It turned out that I. had been in the basement for more than a year, bedridden, and he was forbidden to call KHPG, his calls and contacts were monitored.

After the monitors' visit, he was immediately given the opportunity to contact a lawyer and seek help. The lawyer re-requested his medical documentation and applied to the court for release for health reasons, especially since over the year I.'s health deteriorated and he contracted new diseases and obtained new diagnoses.

After the lawyer applied to the court, I. was convoyed to 5 different institutions for the execution of sentences under various pretexts, during this time he suffered another stroke, and even despite the presence of the conclusion of the medical advisory commission, his court sessions were postponed for more than six months. During one of the penultimate sessions, when I. was carried on a blanket to the video con-

ference room, he was dropped on the stairs between the first and second floors.

On 29.06.2021 Vinnytsia city court made a decision in which it refused to release I.

As of 5 July 2021, the lawyer has not been sent either the text of the decision or the conclusion of the medical advisory commission. In this regard, the lawyer planned to file an appeal against the said decision of the first-instance court. And, based on the text of the medical commission's conclusion, it may be necessary to appeal against the conclusion itself. It is also planned to make complaints to the prosecutor's office of Vinnytsia region, obtain current medical documentation for I. and perform other actions, based on the results, to ensure I.'s treatment in a specialized institution for persons with disabilities.

On 06.07.2021 the lawyer filed an appeal against the decision of the Vinnytsia City Court of 29.06.2021.

However, by a ruling dated 08/13/2021, the Vinnytsia Court of Appeal dismissed the complaint.

On 02.09.2021 the lawyer sent a lawyer's request to the state institution "HC of SCES of Ukraine" regarding the treatment and health status of Mr. I.

On 09.09.2021 the lawyer filed a statement about a crime committed against I. to the Vinnytsia police station on the fact of failure to provide him with medical assistance.

As of 03.11.2021 I. is held in SI "Vinnytsia correctional colony No. 86", he was not even transferred to a specialized colony for people with disabilities.

The lawyer received new documents on her client's state of health, his condition worsened, neither proper treatment nor conditions were provided to him, so the lawyer is preparing a new petition to the court on the lack of treatment and release from serving the sentence due to I.'s state of health. It is also planned to file a complaint with the European Court of Human Rights.

### **Case of Ku-n**

K-n arrived to Kryvyi Rih correctional colony No. 80 for serving his sentence. He turned to SLC with complaints about failure to provide him with medical assistance and failure of the responsible persons to provide documents to court concerning his release for health reasons,

despite a number of indications (HIV stage 4, visual disability group 3, chronic hepatitis C, chronic gastroduodenitis, obliterating atherosclerosis of the vessels of the lower extremities, impaired defecation and urination, absence of a thumb on the left extremity, numbness of the remaining toes of the same extremity, constant malaise, weight loss and others).

On 16.06.2020 the lawyer's requests were sent to the medical unit of the Kryvyi Rih correctional colony No. 80 and the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions concerning the information on K.'s state of health and provision of his medical documentation.

On 09.07.2020 K. was transferred to the inter-regional hospital (hereafter IRH) at the state institution "Dnipro PI No. 4".

On 14.08.2020 the lawyer's request was again sent to the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions concerning the information on K.'s state of health and provision of his medical documentation.

A lawyer's request was also sent to the IRH at the state institution "Dnipro PI No. 4" in order to obtain information about K.'s treatment and state of health.

On 04.09.2020 the lawyer's requests about K.'s state of health were re-sent to the IRH at the state institution "Dnipro PI No. 4" and the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions.

On 07.09.2020 an application was filed to the prosecutor's office of the Dnipropetrovsk region concerning the crimes committed by the responsible persons of the medical unit of Kryvyi Rih correctional colony No. 80, IRH at the state institution "Dnipro PI No. 4" and the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions, as well as the requests to carry out the inquiries of activity of the management of the above-mentioned institutions.

On 16.09.2020 the lawyer's requests about the state of health and treatment were sent to SI HC of the SCES of Ukraine, IRH at the state institution "Dnipro PI No. 4" and the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions.

On 07.10.2020 a lawyer from SLC filed a petition to Dzerzhinsky district court of Kryvyi Rih for K.'s release from further serving the sentence for health reasons.

On 23.10.2020 K-n told the lawyer about a sudden deterioration in his health and about the refusal to provide him with medical assistance, despite his diagnoses and even the risk of amputation of limbs (a toe on one of them has already been amputated).

Before the appointment of the court hearing Mr. K. was transferred to IRH at the state institution "Dnipro Penitentiary Institution No. 4" (although recently he underwent treatment and he was told "nobody will treat you here for free and anyway, you should be brought to a hospital not subordinated to SCES"). Furthermore, K. told his lawyer that the doctors began the treatment process, they perform injections, administer drips, as though they prepare him for the surgery, which will be performed outside of the medical institutions of the SCES system, in MI "Dnipropetrovsk regional clinical Mechnikov hospital of Dnipropetrovsk region council" (hereafter — Mechnikov hospital).

The lawyer filed an application with the court to leave without consideration the application on the obligations of the responsible persons of the state institution "Kryvyi Rih PI No. 80" to provide K. with the necessary treatment.

On 18.10.2020 K. told the lawyer that his attending physician informed him that "your treatment was over with the injections, but you don't mess around because you will be left without feet". The treatment ended because the Mechnikov hospital allegedly twice already refused to admit K. for surgery for lack of free places.

Moreover, K. is forced to write a waiver of treatment because of the inability to provide him with medical assistance. He refused to do it.

On 28.12.2020 a court hearing to release K. on health reasons was to take place, however, it did not take place due to the fact that the conclusion of the commission was not yet ready, and its examination continues. The date of the next court session is still unknown.

On 25.01.2021 K.'s toes on his right lower limb began to blacken, which he reported to his lawyer on 02.02.2021. On the same day, a repeated application was filed for providing treatment through surgical intervention.

On 03.02.2021, 19.02.2021 the court hearings were postponed due to lack of video connection with K.

On 15.02.2021 the lawyer sent a lawyer's request to the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions concerning K.'s state of health and treatment.

On 26.02.2021 the judge granted the lawyer's petition to submit to the court the conclusion of the medical advisory commission on the possibility of submitting documents to the court on K.'s release.

On 20.04.2021 the lawyer was denied her request to release K. from serving the sentence for health reasons. The appellate court upheld the decision of the first instance court.

On the results of the lawyer's petition on providing Mr. K. with medical assistance of 02.02.2021 a surgery took place and Mr. K.'s lower right limb was amputated.

K. told the lawyer that he is not provided with necessary medical help, despite his complaints to the colony employees and the medical unit of the colony.

The lawyer sent a number of letters to the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions and the medical unit of the colony.

On 29.10.2021 the lawyer filed a request to the branch of SI "HC of the SCES of Ukraine" in Dnipropetrovsk and Donetsk regions concerning Mr. K.'s treatment and state of health.

#### **Case of L-ko**

Mr. L., a resident of Kharkiv, a patient of the replacement supportive therapy, by virtue of Art. 89 of the Criminal Code of Ukraine previously not convicted, unemployed, lives with his mother of retirement age. He is suffering from chronic hepatitis C with the transition to cirrhosis of the liver, hepatosplenomegaly, varicose veins of the esophagus: metabolic cardiopathy HF 2nd degree; chronic vascular and venous insufficiency of the 3-4th degree; post-thrombophlebotic syndrome of both lower extremities, edematous and ulcerative form, mental and behavioural disorders due to the use of opioids.

On 03.10.2017 Kharkiv district court of Kharkiv region sentenced L. under Article 309 pt. 3, article 310 pt. 2 of the Criminal Code of Ukraine, the sentence — imprisonment for 4 years.

On 24.05.2018 by the order of the Appellate Court of the Kharkiv Region, the appeal was refused, and the verdict of the Kharkiv District Court of 03.10.2017 was upheld.

On 11.04.2019 by the ruling of the Cassation Court, the cassation appeal was refused, and the verdict of the Kharkiv District Court of

03.10.2017 and the ruling of the Kharkiv Court of Appeal of 24.05.2018 were left unchanged.

On 17.05.2021 L. was detained in connection with the execution of the sentence, and placed in the state institution "Kharkiv Pre-Trial Detention Centre".

turned to SLC for help. A lawyer of SLC took up the case.

On 20.05.2021 the lawyer of the SLC held a confidential meeting with L. in the Kharkiv pre-trial detention centre and obtained copies of L.'s medical documents.

On 21.05.21 L. was sent to serve his sentence at the state institution "Kharkiv Correctional Colony (No. 43)".

On 14.06.2021 the lawyer of the SLC sent a lawyer's request to the state institution "Kharkiv Correctional Colony (No. 43)" about the state of L.'s health at the time. The provision of information was denied due to the reassignment of the medical units of the penal institutions to the branch of the state institution "Health Centre of the State Criminal Executive Service of Ukraine" in Kharkiv and Luhansk regions (Branch of HC of SCES in Kharkiv and Luhansk regions).

On 01.07.2021 the lawyer of the SLC sent a lawyer's request to the branch of HC of SCES in Kharkiv and Luhansk regions.

On 06.07.2021 a confidential meeting of the lawyer with L. was held at the state institution "Kharkiv Correctional Colony (No. 43)". According to L., his condition has deteriorated significantly, and proper treatment was not provided, although his mother regularly donates medications.

On 21.07.2021 an answer from the branch of HC of SCES in Kharkiv and Luhansk regions was received. The provision of information was denied due to the allegedly incorrect execution of the lawyer's request.

On 29.07.2021 the lawyer from SLC sent another lawyer's request to HC of SCES in Kharkiv and Luhansk regions.

was transferred for treatment to IRH at PI "Temnivka correctional colony (No. 100)".

On 12.08.2021 an answer was received from the branch of HC of SCES in Kharkiv and Luhansk regions. The provision of information was denied due to the fact that the access to this information is restricted as it contains medical secret.

On 02.09.2021 the lawyer of the SLC filed a petition with the court for L.'s release from further serving his sentence because of illness.

The court hearing was scheduled for 19.10.2021.

On 19.10.2021 the court session did not take place due to the judge's presence in the deliberation room. The next hearing is scheduled for 01.11.2021.

On 01.11.2021 the hearing did not take place due to the judge being on sick leave. The next hearing is scheduled for 16.11.2021.

### **Case of Mo-y**

Mr. M. is serving his sentence in Oleksiivka correctional colony No. 25.

In late March 2021, Mr. M. turned to KHPG with a statement about bodily harm inflicted on him by the rapid response team on 04.03.2021 upon arrival at the colony. In this regard, on 01.04.2021, the KHPG lawyer sent a copy of the statement about a crime committed against Mr. M.

In the course of work in this case, it turned out that Mr. M.'s shoulder was significantly injured. He complained of pain in his arm and the refusal to provide him with medical assistance in the colony.

As a result, in early September 2021 the lawyer sent the lawyer's requests to the branch of "HC of SCES of Ukraine" in Kharkiv and Luhansk regions and the medical unit of the SI "Oleksiivka PC No. 25" and to the SI "Oleksiivka PC No. 25" concerning the state of health and treatment of Mr. M. However, the lawyer was refused information by all institutions.

Therefore, on 09.09.2021, the lawyer sent a petition to the Dzerzhinsky District Court of Kharkiv, in which she asked to oblige the responsible persons of the branch of HC of SCES of Ukraine in Kharkiv and Luhansk regions and the medical unit of the SI "Oleksiivka PC No. 25" to arrange the examination of Mr. M. and provide him with medical assistance.

On 01.11.2021 the first hearing in the case was to take place, however, it was re-scheduled for 19.11.2021.

### **Case of N-ushchiy**

N-ushchiy turned to a lawyer because of his serious health condition. He said that he was serving a sentence in the Dnipro correctional colony No. 89, as he was diagnosed with stage 4 HIV and tuberculosis. These diagnoses are the basis for his release due to a serious illness.

However, the penitentiary institution did not take any action for such release.

In late August 2021, the lawyer sent N-shchiy the necessary documents to initiate the case, including consent to the disclosure of medical secrets. However, N-shchiy did not receive the letter from the lawyer.

In September 2021, the lawyer sent similar letters several times, and later sent a complaint to the South-Eastern Interregional Criminal-Executive Department about obstacles in the lawyer's performance of his activities.

After that N-shchiy received the lawyer's letter and sent the reply.

After receiving the letter, on 20 September 2021 the lawyer filed a request to Dnipro CC No. 89 to obtain the medical documents of N-shchiy.

The documents were sent to the lawyer only on 21 October 2021.

Now the lawyer is preparing the petition for the release of N-shchiy.

### **Case of Sh-k**

Sh. was in grave condition in a pre-trial detention centre in Kherston. Since the early summer of 2021, Sh.'s health deteriorated, and he needed help with eating and required significant additional care. Sh. could not even speak clearly.

Sh.'s sister turned to SLC and stated that she did not have money to pay for the lawyer's services, she cannot pay for her brother's treatment and asked for help in releasing her brother from custody for health reasons. SLC lawyer took up the case.

In August-September 2021, the lawyer of the SLC held a meeting with the attending physician of Sh. and a representative of the administration of the Kherson SIZO regarding the need to provide adequate medical assistance to Sh. According to the doctor, Sh. refused to take ART therapy and some other drugs until August 2021, however, he nevertheless agreed to hold a medical advisory commission.

At the lawyer's request, the lawyer from SLC received copies of Sh.'s medical documents.

The SLC lawyer filed a motion with the court to release Sh. from custody due to illness. At the hearing, a representative of the hospital confirmed that Sh. had illnesses, but stressed that his condition had improved significantly. All parties to the process, except for the prosecutor, were not opposed to granting the request for the release of Sh.

The court rejected the request of the SLC lawyer to release Sh.

The lawyer of the SLC planned to prepare and file an appeal against this decision, however, Sh. asked not to file a complaint and motivated this request by the fact that his sentence would expire in 3 months and during this time he decided to get medical treatment, because once free, he would not have such an opportunity.

After that, the lawyer of the SLC spoke with the head of the medical unit of the SIZO, with whom he agreed that in case of deterioration in Sh.'s health, they would hold a medical advisory commission and again file a petition for release due to illness.

The SLC lawyer agreed to meet with Sh. about the state of his health after his release on 15 November.

#### **Case of F-tushny**

F-tushny turned to a KHPG lawyer with a request to provide him with legal assistance in connection with a serious illness. He said that he was sick with tuberculosis in an open form, but he was still being held in a common residential unit, albeit in an isolated room. This is because there is virtually no medical unit in the colony. Taking him out for treatment is also delayed.

In early November 2021, the lawyer sent documents to F-tushny to the Odessa correctional colony No. 14 for signing an agreement for the provision of legal assistance. However, F-tushny did not receive the documents. According to the administration, no letters from the lawyer came to him. In addition, F-tushny began to receive threats not to disclose the situation in the institution, and then he asked the lawyer not to write letters to the colony anymore, but to continue to complain to other authorities.

Then the lawyer filed a complaint with the Southern Interregional Directorate for the Execution of Sentences, where she described the situation, and also with the Health Centre. Also, a corresponding letter was sent to the office of the Human Rights Commissioner of the Verkhovna Rada of Ukraine.

After that, F-tushny was hastily prepared for escorting and was taken, in his words, for treatment.

However, after his departure from the institution, both the lawyer and F-tushny's wife lost contact with him.

The case continues.

#### **Case of Lov-sky**

Lov-sky turned to the KHPG lawyer during the visit of the monitoring group of the organization to the Dnipro Penitentiary Institution No. 4 in November 2021. He said that he was seriously ill and needed an urgent consultation with a urologist and a bladder surgery. Now his condition is so bad that he is unable to eat, he is constantly vomiting, and urine is not drained from the body. However, the employees of the medical unit do not provide him with proper assistance — they do not even examine him, and he has to install a urinary catheter himself. The lawyer immediately signed a contract with Lov-sky and the agreement to disclose medical secrets. However, the medical unit refused to provide her and other members of the monitoring group with Lov-sky's medical record.

After that, on 15 November 2021, the lawyer sent a lawyer's request to the State Institution "Dnipro Penitentiary Institution No. 4". But she still haven't received an answer.

The lawyer plans to go to court for urgent treatment of Lov-sky, despite the fact that she does not have any medical documents.

#### **Case of Kan-kov**

In early October 2021, Mr. K.'s wife contacted the NGO "KHPG" and said that he could not move independently and serve himself in the conditions of the State Institution "Kharkiv CC No. 43" in a wheelchair, since there were no conditions for this in the colony. He has a number of diagnoses that prevent him from continuing to serve his sentence, because due to the lack of adequate medical care by the medical institutions of the SCES system, K. is experiencing inhuman suffering, which interferes with the main purpose of serving the sentence.

Thus, he had the following diagnoses: condition after suffering a severe polytrauma (25.08.04) — an accidental fall from the 5th floor, dysfunction of the pelvic organs, deformity and dysfunction of the ankle joints, open traumatic brain injury, compression fracture — condition after hemilaminectomy, on the right side and decompression of the spinal cord, lower coarse paraparesis, sphincter disorders, headaches, pains and disorders of the pelvic organs, dizziness, closed fracture of the left talus, violation of the gait act, the first A-group of disability in 2007.

On 17.10.2021 the lawyer visited K. in the colony, where she received documents and consent to the disclosure of medical secrets.

On 21.10.2021 the lawyer sent a lawyer's request to the Branch of the SI HC of SCES in the Luhansk and Kharkiv regions about the state of health and treatment of K. However, on 08.12.2021 the request was returned due to the expiration of the storage period, which is an example of the systemic behaviour of this body.

On 10.11.2021 K. asked the lawyer to wait a bit with an appeal to the court until he learns from the head of the medical unit of the colony whether they will submit his documents to change the disability group.

On 26.11.2021 the lawyer, with K.'s consent, sent a petition for K.'s release to the Ordzhonikidze district court of Kharkiv.

On 09.12.2021 the first meeting was supposed to take place, however, the prosecutor did not appear, so it was postponed to 15.12.2021 at 3:30 pm.

#### **Case of B-v**

B. is in the "Volnyanskiy penitentiary institution (No. 11)". He cannot move independently and serve himself in a wheelchair, since there are no conditions for this in the colony. B. has a number of diagnoses that prevent him from serving his sentence further, because due to the lack of adequate medical care by the medical institutions of the SCES system, he is experiencing inhuman suffering in connection with the following diagnosed diseases: L5-S1 with pain syndrome; myeloradiculopathy; dysfunction of the pelvic organs of the peripheral type, lower paraparesis. B. is a disabled person of I "B" group for life.

He turned to KHPG in writing on 09.09.2021, which is confirmed by the date of the accompanying sheet of Volnyanska Penitentiary Institution No. 11, however, this letter was sent only on 15.11.2021, and only on 26.11.2021 KHPG received this letter with a copy of an extract from B.'s medical record, certified by Volnyanska penitentiary institution No. 11.

On 29.11.2021 the lawyer filed a petition with the Volnyanskiy District Court of the Zaporizhzhia region for the release of B. due to his state of health.

The hearing is scheduled for 13.01.2022.

#### **Case of M-v**

M. is serving his sentence in the hospital at the SI "Dnipro Penitentiary Institution (No. 4)".

According to M.'s information, he suffered a stroke, after which, with the help of a cellmate, he copes with his natural needs, barely speaks, and cannot move and take care of himself on his own. Also, his organs of the gastrointestinal tract, liver and kidneys are not fully functioning.

Thus, M. is bedridden, his life has is calculated in hours rather than days, and his state is only getting worse every day. Since M. cannot serve himself on his own, this is done by his cellmate.

On 26.11.2021 the lawyer sent lawyer's requests to the medical unit of the State Institution "Dnipro Penitentiary Institution (No. 4)" and the Branch of the SI HC of the SCES in the Dnipropetrovsk and Donetsk regions.

A petition was also sent to the Krasnogvardeisky court of the Dnipropetrovsk region to release M. due to his state of health.

The meeting was supposed to take place on 09.12.2021, but was postponed due to the fact that the judge had previously asked to write a motion to hold a meeting by videoconference in another court, but not in the EASY-CON system, as the lawyer originally requested.

#### **Tel-ko's case**

On 25.06.2021 Mr. Te-ko asked KHPG to help him because he was suffering from heart disease — according to the medical commission, he needed heart surgery.

Mr. Te-ko is serving his punishment in SI Selydivska PC No. 82.

On 06.07.2021 the lawyer sent the lawyer's requests to the branch of the state institution "Health Center of the State Criminal Executive Service of Ukraine" in Dnipropetrovsk and Donetsk regions and to the medical unit

State Institution "Selydivska Correctional Colony No. 82".

The branch did not even take the lawyer's letter, and the medical unit refused to respond to the lawyer's request.

On 30.07.2021 the lawyer sent a request for medical assistance to Mr. T-ka to the Selydiv City Court of the Donetsk Region.

By the decision of the Selydiv Court of the Donetsk Region of August 5, 2021, received on August 26, 2021, the lawyer was denied her re-

quest. Refusing, the court referred to the fact that the current Criminal Procedure Code of Ukraine does not provide for the possibility to apply to local courts to resolve issues concerning the provision of medical care to convicts. Such statements should be dealt with in administrative proceedings.

On 31.08.2021 the lawyer filed an appeal against the decision of the Selydiv district court of Donetsk region of 05.08.2021.

On 10.11.2021 The Donetsk Court of Appeal upheld the decision of the first-instance court.

The lawyer submitted allegations of non-provision of medical care to Mr. T-ko to the Human Rights Commissioner of the Verkhovna Rada of Ukraine and the Head of the Department for Supervision of Law Enforcement in the Execution of Judgments in Criminal Proceedings, Other Coercive Measures in Prisons and Probation.

The lawyer sent a statement to the local prosecutor's office about the criminal offense committed against Te-ko in the form of failure of the head of the medical unit of the Selydivska CC No. 82 to provide him with medical care. As a result of which the criminal proceedings were opened.

#### ***Mishch-ko's case***

At the beginning of July 2021, Mr. Mishch-ko complained to the KH-PG about the inaction of the staff of the medical unit of Starobabanivska Colony No. 92, who, aware of his serious incurable diseases, did not take measures to release him early from serving his sentence due to health problems.

The lawyer sent a statement to the Starobabanivska colony (medical unit), requesting that Mr. Mi-ko be transferred to a specialized TB hospital for medical treatment.

Also, the lawyer sent the lawyer's requests regarding the state of health and treatment of Mr. Mishch-ko to the branch of the state institution "HC of SCES of Ukraine" in Cherkasy and Kirovohrad regions and to the Medical Unit of the State Institution "Starobabanivska correctional colony (No. 92)".

The lawyer sent a petition for Mr. Mishch-ko's release for health reasons to the Uman City District Court of Cherkasy Region.

Mr. Mi-ko was transferred to Snihuriv Specialized Tuberculosis Hospital No. 5.

On 08.09.2021, 22.09.2021, 11.11.2021 the court hearings were postponed for various reasons.

On 14.12.2021 a doctor who was not Mr. Mi-ko's attending physician appeared at the court hearing, so the lawyer requested that the court hearing be adjourned due to the need to interrogate the attending physician. The date of the next court hearing is unknown.

#### ***S-ruk's case***

S-ruk is serving his sentence in the form of life imprisonment in Romenska correctional colony No. 56. He has a mental condition (mental retardation), as well as a number of chronic neurological and respiratory diseases.

The doctor repeatedly prescribed S-ruk the following medicines: Doxycycline, Ambroxol, Salbutamol and Neophyllin. Indications for the use of these drugs are respiratory tract infections, therapy for acute and chronic bronchopulmonary diseases, short-term expansion of the bronchi with a rapid onset with airway obstruction, relief of asthma attacks, bronchial asthma, etc. There are not enough medicines in the pharmacy of the medical unit, therefore, some of drugs necessary for S-ruk were either not provided at all or were provided with an expired date. Thus, for example, S-ruk had not received Salbutamol, intended for expansion of the bronchi in case of airway obstruction, for several months and was forced to suffer from constant bronchial spasms, which he could not independently stop.

Therefore, on December 10, 2021, the lawyer sent a lawyer's request to the Romenska correctional colony No. 56 about the current state of health of S-ruk, as well as a request to the branch of the Health Centre in the Sumy region about the reasons for not providing the institution with medicines.

The consideration of the case continues.

## **15 SUCCESSFUL CASES**

#### ***Nau-chyk. case***

Mr. N. asked the SLC lawyer for legal assistance as he was failing to provide him with medical care. He noted that in recent months his health had deteriorated to such an extent level that Mr. N. was almost

completely paralyzed. However, he was not receiving medical treatment.

On July 23, 2020, August 17, 2020, and September 8, 2020, the lawyer sent legal requests to the Odessa detention center to establish the health of Mr. N. However, contrary to current legislation, she did not receive answers to her requests.

Therefore, on August 29, 2020 and October 14, 2020, the lawyer sent complaints to the Prosecutor's Office of Odessa region, the Southern Interregional Department for Execution of Sentences and Probation and the Ministry of Justice. However, the authorities stated that the lawyer allegedly did not have the authority to access the applicant's medical records.

Then, on December 3, 2020, the lawyer filed a complaint under Art. 206 of the CPC of Ukraine to the Malynovsky District Court of Odessa with a requirement to immediately organize the treatment of Mr. N. Although the trial was to take place within a day (according to the current CPC of Ukraine), in practice the hearing has not taken place.

The court consideration took place only on 2 February 2021 while the Malynovskyy district court granted the lawyer's motion and obliged the Odessa detention center to give Mr. N necessary medical treatment. However, the detention center has not performed the judgement, therefore the lawyer filed a statement of crime due to not-per-forming of such judgement. The criminal proceedings were started but no investigative actions were made.

On 10 March 2021 the SLC lawyer also sent several motions to the Ministry of justice, Ombudsperson and the Center of the Health Care on the lack of the medical assistance. On 1 April 2021 the Ministry of justice answered that the disciplinary proceedings on this fact were opened. The case is pending.

On 25 April 2021 the SLC lawyer lodged a criminal complaint on not-execution the court's judgement on medical care for N-chyk.

However, in early August 2021, N.'s preventive measure was finally replaced and he is now under house arrest.

#### ***P-chenko case***

Mr. P. turned to a lawyer for legal assistance. He said he was suffering from a number of serious illnesses, including eye disease that had led to blindness. Based on his illness, he is entitled to release from

servicing his sentence. He is currently serving his sentence in the Sofia Correctional Colony No. 45.

On November 1, 2020, the lawyer addressed her request to the Sofia Correctional Colony to obtain P-ka's medical documents. However, she did not receive an answer to her request.

On November 14 and November 17, 2020, the lawyer filed complaints about the failure to get response to the request to the Prosecutor's Office of Dnipropetrovsk region and the South-Eastern Interregional Department. However, in response, she was informed that she allegedly had no right to receive the client's medical data

Then, on December 4, 2020, the lawyer filed a petition with the Sofiyivsky District Court of the Dnipropetrovsk Region to release P. due to illness. In her application, the lawyer stated that she could not provide the court with the client's medical records because the colony had not responded to her requests.

The court hearing was scheduled for December 28, 2020.

However, the court hearing took place only on January 13, 2021. During this meeting, P. was appointed to hold a medical advisory commission at the Stryzhavska Correctional Colony. The medical advisory commission was held for more than three months, but was eventually told that he was on the list of persons who could be released from serving a sentence due to a serious illness.

On June 16, 2021, the Sofiyivsky District Court of the Dnipropetrovsk Region ruled to release Mr. P. due to illness.

#### ***T-nenko's case***

T. was serving his sentence in the Sofia Specialized Tuberculosis Hospital No. 55.

T appealed to a lawyer in early February 2021 with complaints about the failure to provide him with medical care and failure of the responsible persons to submit documents to the court regarding his release from serving a sentence due to health conditions, despite a number of indications for this (HIV, hepatitis C, tuberculosis and comorbidities).

On February 8, 2020, the lawyer sent a request to the Branch of the State Institution "Health Center of the State Penitentiary Service of Ukraine" in Zaporizhia region and to the interregional hospital at the colony regarding the state of health and treatment of T.

On February 26, 2021, the lawyer filed a motion with the court to release T. from serving his sentence due to his health condition.

On March 24, 2021, the court hearing was postponed due to the fact that the assistant of judge was hospitalized.

On April 14, 2021, the court session did not take place due to the lack of light in the colony.

It turned out that on April 5, 2021, T. was released from serving a suspended sentence.

#### **Ye-sky case**

Ye. arrived at the the Interregional multidisciplinary hospital at the at the State Institution “Dnieper penitentiary institution (No. 4)” from the State Institution “Bakmut SIZO (No. 6)” for treatment of hemorrhoids.

In December 2020, Ye. complained to the SLC about the lack of treatment for the existing disease, which had recently worsened and caused him excruciating pain and discomfort, as it was accompanied by hemorrhages.

On December 24, 2020, the lawyer sent a lawyer’s request to the the Branch of the State Institution “Healthcare Centre of the State Criminal and Executive Service of Ukraine” in Dnipropetrovsk and Donetsk regions regarding Ye.’s state of health and treatment.

On December 30, 2020, Mr. Ye. announced that he had been transferred to Odessa without any explanation and the place, where he would be taken next, is unknown.

On January 5, 2021, the SLC lawyer sent a motion to the Belozersky District Court of the Kherson Region for the treatment of Mr. Ye.

On January 28, 2021, the SLC lawyer sent lawyer’s requests to the Branch of the State Institution “Health Center of the State Penitentiary Service of Ukraine” in the Kherson region and to the Daryiv Multidisciplinary Hospital No. 10 at the State Institution “Daryiv Correctional Colony (No. 10)”.

As a result, Mr. Ye. was given surgical treatment and, after rehabilitation, transferred to the Bakmut Pre-trial detention center No. 6.

#### **Os-ko’s case**

On 03.12.2021 Mr. Os-ko turned to the KHPG for legal assistance in connection with the failure of the responsible persons of the medi-

cal unit of the Kharkiv Pre-Trial Detention Centre to provide him with medical care.

Thus, Os-ko reported that he was serving his sentence in Oleksiivka PC No. 25, where he was diagnosed with osteomyelitis — he lost almost all his teeth, his nose is rotting, he has got constant fever and headaches. In addition, he has HIV, hepatitis, gastritis, etc.

For the treatment and examination of his illness, the medical unit of the Oleksiivka Correctional Colony sent him to Daryiv Hospital No. 10, however, for more than three months Mr. Os-ko was in the Kharkiv SIZO without any examination and treatment, and his condition was actively deteriorating.

On 06.12.2021 the SLC lawyer visited Mr. Os-ko in Kharkiv SIZO, where he took the necessary documents.

On 09.12.2021 The lawyer prepared and sent a request for treatment and examination of Mr. Os-ko to the Zhovtnevy District Court of Kharkiv.

On 15.12.2021 Zhovtnevy District Court of Kharkiv granted the lawyer’s request and ordered the responsible persons of the Kharkiv SIZO to ensure that Os-ko was sent for examination and treatment based on its results.

#### **Pet-ko case**

Mr. P. is in the State Institution “Ivano-Frankivsk Penitentiary Institution (No. 12). Mr. P. complained to the SLC that he had not been provided with medical care despite diagnoses that interfered with his normal functioning and tended to worsen.

On December 24, 2020, the lawyer sent lawyer’s requests to the Branch of the State Institution “Healthcare Centre of the State Criminal and Executive Service of Ukraine” in Chernivtsi, Ivano-Frankivsk and Zakarpattia regions and to the Ivano-Frankivsk City Medical Unit No. 12 regarding the state of health, examination and treatment of Mr. P.

On January 29, 2021, the lawyer submitted to the Ivano-Frankivsk prosecutors’ regional office to asked for contact supervision of no giving the answer of the lawyer’s requests of the Branch of the State Institution “Healthcare Centre of the State Criminal and Executive Service of Ukraine” in Chernivtsi, Ivano-Frankivsk and Zakarpattia oblasts and to the Ivano-Frankivsk City Medical Unit No. 12 and initiate the criminal proceeding.

On February 03, 2021, the lawyer submitted to the investigative judge of Ivano-Frankivsk city court of Ivano-Frankivsk region to make the Ivano-Frankivsk City Medical Unit No. 12 to treat Mr. P. If the Ivano-Frankivsk City Medical Unit No. 12 do not provide a healthcare Mr. P. there they must transfer him to another medical institution for treatment.

The district court refused the application of the lawyer and the Court of Appeal returned to retrial. As a result of a new consideration the application was granted but it had not executed.

On April 23, 2021, the lawyer submitted a criminal complaint to the Ivano-Frankivsk prosecutors' regional office on non-execution of the judgment.

The lawyer sent appeals and statements to the Commissioner for Human Rights of the Verkhovna Rada, the SI HC of SCES of Ukraine, TD of the SBI located in Lviv, again to the Prosecutor's Office of Ivano-Frankivsk region on non-execution of the decision of the Ivano-Frankivsk City Court of March 11, 2021.

As a result, she received replies that Mr. P. had first asked for his examination to be postponed due to the COVID-19 epidemic, then he was not satisfied with the doctors offered to him, and later stated that he had no complaints. In September the lawyer sent the requests concerning Mr. P.'s state of health and treatment to the branch of SI HC of SCES of Ukraine in Chernivtsi, Ivano-Frankivsk and Zakarpattia regions and to Ivano-Frankivsk city medical unit No. 12. She received the reply that Mr. P. is receiving the medical treatment.

### ***D-sh case***

D. arrived at the Sofiyivska Correctional Colony (No. 55) to serve his sentence. In March 2021, the lawyer complained to the Central Health Institution about the failure to provide him with medical care and the failure of officials to file a lawsuit regarding his release from prison due to his health condition, despite his diagnoses of atherosclerosis of the arteries of the lower extremities. HNK 4 st. according to Fontaine (critical ischemia — a delay in blood circulation in the arteries of the lower extremities). He underwent amputation of the right lower limb at the level of the middle third of the thigh.

In addition, he is concerned about the condition of his left limb, as he feels unbearable pain and does not receive treatment despite his complaints, so it is likely to lose his left limb.

On March 9, 2021, a lawyer's request was sent to the Branch of the Center of the Health Care in Zaporizhia region regarding the state of health and treatment of D.

On March 25, 2021, the lawyer filed a petition for early release of D. due to health reasons.

On March 30, 2021, the lawyer sent legal requests to the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine to clarify the concept of "high amputation of the lower extremity", in accordance with Annex 13 to the Procedure for providing medical care to convicts (paragraph VI of section VI), List of diseases that are the basis for submission to the court of materials on the release of convicts from further serving of sentence, section XIV. Anatomical defects due to disease or injury.

On April 12, 2021, a court hearing was scheduled, but it did not take place due to the prosecutor's limited time.

On April 29, 2021, June 10, 2021, court hearings were postponed due to the lack of an opinion of the medical-advisory commission and the colony's failure to communicate with the court (lack of Internet in the colony).

On 02.08.2021 the court hearing did not take place because the prosecutor failed to appear.

Mr. D. was provided with medical care — treatment of the amputated stump, preparation for the prosthesis.

On 25.08.2021 The lawyer filed a petition with the court to provide D-sh with medical care, as his condition began to deteriorate during the trial and after the amputation of his right limb, his left limb started worrying him.

On 26.08.2021 D-sh refused the help of a lawyer, as he was allegedly promised favorable conditions for him to serve his sentence with subsequent parole.

On the same day, the lawyer applied to leave her application without consideration.

### ***Sad-k. case***

Mr. S. is serving a prison sentence in the Odessa correctional colony No. 14. He asked the SLC lawyer for legal aid because he was suffering from a serious illness, namely HIV-4. Mr. S. is entitled to be released from the punishment in accordance with Article 84 of the Criminal Code of Ukraine.

On August 5, 2020, the lawyer applied to the correctional colony with a lawyer's request for medical documentation.

On August 23, 2020, the lawyer received a response from the Odessa Correctional Facility with medical documents.

On September 8, 2020, the lawyer applied to the Malynovsky District Court of Odessa with a request to release S. from serving his sentence due to illness.

On October 17, 2020, the Malynovsky District Court of Odessa sent its decision to the lawyer, refusing to open proceedings at the motion of the lawyer. The court noted that the lawyer did not have the right to apply to the court, and this should be done by the penitentiary institution, or, as a last resort, the lawyer, if there is an opinion of the medical advisory commission.

On October 19, 2020, the lawyer filed an appeal with the Odessa Court of Appeal.

The court hearing is scheduled for January 4, 2021 but did not take place.

On 25 February 2021 the Odessa Court of Appeal sent to the SLC lawyer its judgement according to which her motion was granted and the case was returned to the trial court for new consideration.

The first court hearing in the court of first instance was scheduled for April 11, 2021, but did not take place due to the privilege of a judge in another case. The case is pending. To date, no meeting has taken place, but seven meetings have been scheduled. Each time there was a different reason to postpone the hearing to another date. Eventually, S. was released on parole.

### **Case of G-z**

***Mr. G. is serving a sentence in the Kharkiv correctional colony No. 43.***

At the end of March 2021, convict M. turned to KHPG after the release from this institution. M. said that Mr. G. has a suspicion of lung cancer, judging by the symptoms: cough, shortness of breath, he loses consciousness, and he is not examined and not treated, he continues to work in production.

According to M., G. cannot independently apply for help, since the administration of the institution prevents such appeals from convicts for help.

During the monitoring visit of the KHPG journalists to the Kharkiv correctional colony No. 43, Mr. G. confirmed everything indicated by Mr. M. and applied in writing for legal assistance in solving his problem. Moreover, the head of the medical unit of the Kharkiv correctional colony No. 43 commented that Mr. G. really has suspicions of oncology according to the results of fluorography, and he needs a more detailed examination and transfer to the Lviv specialized hospital for the treatment of oncological diseases in the penitentiary system. However, the colony is not yet able to do this.

On 01.04.2021 the lawyer appealed to the Ordzhonikidze Court of Kharkiv with a petition, in which she asked the court to oblige the responsible persons of the medical unit of Kharkiv CC No. 43 and Kharkiv CC No. 43 to arrange the examination and provision of medical assistance.

The court refused, without even informing the lawyer about the hearing and the decision.

On 26.04.2021 the lawyer sent the lawyer's requests to the state institution "HC of the SCES of Ukraine", the branch of the state institution "HC of SCES of Ukraine" in the Kharkiv and Luhansk regions and the medical unit of the state institution "Kharkiv CC No. 43" regarding the state of health and treatment of Mr. G.

On 09.06.2021 using the telephone, G. said that he was taken for a computed tomography and he was promised to receive medical assistance in the Lviv specialized hospital at the penitentiary institution No. 19, while they did not even inform him of his diagnosis.

On 15.06.2021 the lawyer filed the complaints to MD of the "HC of SCES of Ukraine" and Human Rights Commissioner of the Verkhovna Rada on the fact of failure to provide medical assistance to the convict.

In the future, it is planned to obtain the medical documentation of Mr. G., which is denied to the lawyer on far-fetched reasons after the examination, and to file a crime statement with the Prosecutor's Office of the Kharkiv region and with the territorial department of the SBI, which is located in the city of Poltava, against the responsible persons of the colony and the medical unit of the Kharkiv correctional colony No. 43.

According to the information provided on 05.07.2021 and 07.07.2021 by the SI "HC of SCES of Ukraine" G. underwent the computer tomography of the chest cavity organs and he was examined by an onco-sur-

geon, and surgical intervention was planned for the second half of July 2021.

On 20.08.2021 the lawyer sent statements about crimes on the fact of failure to provide medical assistance to Mr. G. to the Prosecutor's Office of the Kharkiv region and to the TD of the SBI, which is located in the city of Poltava, against the responsible persons of the colony and the medical unit of the Kharkiv correctional colony No. 43.

As a result, the Nemyshlyanskiy District Prosecutor's Office of Kharkiv city entered statements on the fact of failure to provide medical assistance to G. into the Unified State Register of Pre-trial Investigations, investigative actions are being carried out.

On 20.08.2021 the lawyer sent the lawyer's requests to SI "HC of the SCES of Ukraine" asking to provide the information and documents on the treatment and state of health of G., which the branch of the SI "HC of the SCES of Ukraine" in Kharkiv and Luhansk regions is refusing to provide in breach of the law. The request was transmitted to the branch of the SI "HC of the SCES of Ukraine" in Kharkiv and Luhansk regions which did not provide the answer again.

On 21.10.2021 the lawyer sent the lawyer's requests concerning the treatment and state of health to SI "HC of the SCES of Ukraine", the branch of the SI "HC of the SCES of Ukraine" in Kharkiv and Luhansk regions and the medical unit of the SI "Kharkiv CC No. 43" concerning Mr. G.'s treatment and state of health.

As of 03.11.2021 not a single body sent a response to the inquiries, but Mr. G. underwent a course of chemotherapy, which ended on 19.10.2021. In the near future, he expects to be transferred to the Lviv specialized hospital at PI No. 19 for examination and surgical intervention.

#### **Case of K-ovoy**

***At the end of September 2020, during a monitoring visit, K-ovoy turned to his lawyer and said that he was suffering from a number of serious diseases, including tuberculosis and HIV. He asked for help in release for health reasons.***

On 6 October, 2020, the lawyer sent her request to Northern Correctional Colony No. 90, in which she asked to provide her with all the necessary medical documents of her client. However, the lawyer did not receive a response to her request.

Then the lawyer sent a complaint to the prosecutor's office of the Kherson region, in which she asked to take measures of the prosecutor's response in connection with the situation that developed with her lawyer's request.

The prosecutor's office of the Kherson region sent a response on 29 October, 2020, in which it indicated that no violations were found.

Meanwhile, in November 2020, the lawyer sent a petition to the Kherson City Court of the Kherson Region to release K. for health reasons. In her petition, the lawyer indicated that she could not provide the court with documents confirming the client's illness, since the colony did not provide her with such documents. She also asked the court to demand such documents and to conduct a medical advisory commission with her client, since the colony, on its own initiative, did not conduct such a commission.

The Kherson City Court opened proceedings, but until today it has not carried out any actions aimed at considering the case. Namely, the court allegedly scheduled several sessions, to which K. was summoned, but about which the lawyer was not informed. As a result, the lawyer did not have a chance to appear at them.

The consideration of the case continues. After the lawyer's complaints to the head of the court's staff, the court finally sent a summons to the lawyer.

On 23 September 2021 the court refused to satisfy the petition for the release of K. K.K. asked not to appeal against the decision, since the colony had applied for his parole.

In late October 2021 K. was released on parole.

#### **Case of K-sh**

K. arrived to SI "Kamenka correctional colony" (No. 34) for serving her sentence from Odesa CC.

On 30.09.2020 K. turned to KHPG for help due to the lack of medical assistance. According to the data provided by K., her health condition has deteriorated significantly over the past years. In particular, she was repeatedly referred for treatment in connection with cysts and bleeding during 2018–2019 in hospitals at Lviv PI No. 19 and in IRH at SI Daryevska CC No. 10", she suffered from constant pain and weakness, and it continues. About five months ago, her pain in the female genital area worsened and the amount of brown secretions increased. However,

no examinations were carried out to establish a diagnosis and a possible treatment plan for K. before the court hearing on the complaint filed by the lawyer on the above matter.

Despite K.'s numerous appeals to the administration of the colony and to the medical unit, all the necessary examinations were not carried out; moreover, the head of the medical unit of the SI "Kamenka Correctional Colony" (No. 34) said that immediately before the court hearing K. was taken to a civil hospital for examination and prescribed treatment, however, the colony did not have the vitamins, tablets and vaginal suppositories needed for K., therefore she had to buy the medicines prescribed by the doctor at her own expense, while she said that the colony is provided with all the necessary medicines.

Despite this, K.'s request for examination and treatment was denied. The appellate court upheld the decision of the trial court.

On 03.07.2021 the lawyer sent complaints to the SI HC of SCES of Ukraine", the Ombudsman of the Verkhovna Rada of Ukraine and to the Prosecutor's Office of the Dnipropetrovsk region about the lack of medical care of the convict K.

On 05.07.2021 K. reported by phone that her condition continues to deteriorate, the doctor said that she "just had lymphoma, and there is nothing to worry about".

The lawyer had to file a cassation appeal before 06.08.2021 against the decision of the appellate instance, obtain information about K.'s state of health to date and file a crime complaint against those responsible for not providing medical assistance to K.

On 01.08.2021 Mrs. K. told the lawyer by telephone that there was no need to file a cassation complaint and a crime statement, since they began to provide her with medical assistance.

Between early August and 03.11.2021 Mrs. K. consistently contacts a lawyer twice a week by phone and informs about her state of health — about her examinations and treatment, since mid-September she was suspended from work for health reasons and prescribed a new course of treatment and examination.

### **Case of L-n**

Mr. L., a 36-year-old man, was serving his sentence in Oleksiivka correctional colony (No. 25).

On 01.03.2020, 22 convicts in the colony submitted applications to the investigating authorities concerning the tortures by the administration of the colony, among them was L., as one of the initiators of this appeal. Since then, all these convicts, in particular, Mr. L., have been subjected to pressure and repression, including in the form of a refusal to provide medical assistance.

In 2021, when he was held in custody in Kharkiv pre-trial detention centre (No.27) (hereafter — SIZO), he felt unwell. He complained to the SIZO medical workers about pain in the liver and kidneys, discomfort in the pancreas, frequent vomiting, but he was not provided with medical assistance.

After L.'s unsuccessful attempts to obtain medical assistance from the SIZO administration, on 30 April 2021, the lawyer of the Strategic Litigations Centre (SLC) of the KHPG applied to the regional branch of the Health Centre of the SCES of Ukraine with a request to provide copies of medical documents.

On 18.05.2021 in response to a request, it was refused to provide documents to the lawyer, but L. was examined by a doctor from the SIZO medical unit. He diagnosed him with viral hepatitis and wrote out a referral for a blood test to determine the exact form of the disease in a private medical centre.

The referral of a sick prisoner for medical diagnostics to a health care institution, while the prisoner has neither his own funds, nor persons who could pay for these services, was essentially a refusal of the prison medicine system to provide him with medical care.

To ensure the necessary diagnosis of L. and to ensure the provision of appropriate medical care to him, the lawyer prepared and on 09.06.2021 filed a complaint with the Oktyabrskiy District Court of Kharkiv under Article 206 of the Criminal Procedure Code of Ukraine on violation of L.'s right to medical assistance.

On 22.06.2021 the court granted the lawyer's complaint and ordered the medical unit of the pre-trial detention centre to ensure that L. undergoes the necessary medical examinations, and after receiving the results — that he is prescribed the appropriate treatment and receives it.

After the obligation of the court to provide medical assistance to L., this obligation was not fulfilled under various pretexts.

The lawyer of the SLC in this regard appealed to the prosecutor's office, which oversees the observance of laws in the execution of criminal sentences, and since this did not yield any results, on 15.09.2021 she sent a notification of the criminal offence committed by the prison medical administration — non-enforcement of the court decision.

After that, L. underwent appropriate medical examinations and began treatment, in particular, he was provided with hepaprotectors.

### **Case of S-va**

S-va is a Rom woman. She is accused of several episodes of taking possession of property in the implementation of fortune-telling.

On 07.09.2020 S-va was taken into custody. While in custody, S.'s gynecological disease worsened and she was recommended to undergo a surgical intervention.

It was not possible to carry out such surgery in prison hospital, and S-va turned to the SLC.

In August 2021 a lawyer from SLC intervened in the case.

At the beginning of September 2021, the SLC lawyer filed a petition to mitigate the prevention measure from detention to house arrest in order to provide the opportunity to receive adequate medical care for S-va.

On 06.09.2021 the court granted the request of the SLC lawyer and mitigated the prevention measure for S-va from detention to house arrest.

Currently S-va is being treated in a civil hospital.

### **Cases of S-ov**

S. is serving a sentence in Litinska CC No. 123. He turned to a lawyer with a complaint about the lack of treatment for a leg injury (fracture), which caused the leg to heal improperly. On 12 January 2021, the lawyer sent a lawyer's request to the colony to find out the exact diagnosis and current state of health of S.

On 23 January, 2021, the penitentiary institution replied that S. had indeed been injured, but he was receiving the necessary treatment.

After that, the lawyer prepared and sent a complaint to the Health Centre about the lack of adequate treatment and asked to take S-ov to Strizhavka CC No. 86, where the hospital is located.

In February 2021, S. was transferred and he began to receive treatment.

However, in July 2021, S. turned to a lawyer again, stating that, despite the treatment he had received, he could not walk normally and needed an expensive surgery.

The lawyer sent another complaint to the Health Centre, after which S. was taken to the Strizhavka correctional colony for examination. He was indeed recommended to have surgery using the Elizarov apparatus. However, such manipulations were not carried out in the institution, and treatment in a hospital outside the penitentiary system was required.

S.'s relatives. were able to provide funds to pay for medical care. And after several statements by the lawyer about the need for transfer, in October 2021 S. was taken to the hospital, where he underwent the necessary surgery.

### **Case of Yug-v**

On 26.08.2021 the mother of Mr. Yu-v, who is held in Kharkiv SIZO and suffers from diseases that cause him unbearable pain and discomfort, turned to the KHPG. He is not provided with any examinations or even painkillers. She gives him medications, but they no longer help, he needs to be examined and prescribed new medications.

On 28.08.2021 a lawyer of KHPG sent applications to SI "HC of the SCES of Ukraine" and the branch of SI "HC of the SCES of Ukraine" in Kharkiv and Luhansk regions on taking the measures.

On 14.09.2021 the lawyer visited Mr. Y. in the pre-trial detention centre, where he gave his consent to access his medical secrets and handed over the medical documents.

On 15.09.2021 the lawyer sent a petition to the Oktyabrsky District Court of the city of Kharkiv on violation of Mr. Y.'s rights, in which she asked the court to ensure Mr. Y.'s examination. and provision of treatment based on the results of this examination.

On 21.09.2021 the Oktyabrsky District Court of Kharkiv granted the lawyer's petition in full.

On 03.11.2021 the lawyer sent the lawyer's requests to the medical unit of Kharkiv SIZO and the branch of SI "HC of the SCES of Ukraine" in Kharkiv and Luhansk regions on the results of the execution of the decision of the Oktyabrsky District Court of Kharkiv city.

## 11 UNSUCCESSFUL CASES (CLIENT REFUSAL, CLIENT DIED, LOST CASE)

### ***M-ok case***

Mr. M. is serving his sentence in the Daryivska specialized hospital No. 10 at the facility No. 10.

At the end of December 2020, M. turned to KhPG with complaints of pain in his lower extremity, which lasted for more than a year, as he had two fractures of his right leg that had fused.

His right leg is 5 centimeters shorter than his left, he cannot move fully, his health is deteriorating, and his body aches are getting worse.

On May 26, 2017, M. was recommended surgical treatment, however, it was not performed.

Therefore, M. needs urgent treatment, in particular, surgery, to treat the lower extremity, which has grown incorrectly.

On December 11, 2020, the lawyer sent legal request regarding the state of health and treatment of M. to the Branch of the State Institution “Health Care Center” in the Kherson Region and to the Daryivska Hospital No. 10.

In response to a lawyer’s request dated 11 December 2020, the head of the Health Center branch of the State Institution provided the lawyer with only copies of M.’s inpatient medical record, but no other information on his health and treatment was provided.

On January 8, 2021, the lawyer re-submitted the request and filed a motion with the court for an urgent obligation of the responsible persons of the hospital to provide the necessary medical care to the convicted M. in the health care institution, and in case of impossibility, in a health care institution of state or communal system.

On January 18, 2021, the court hearing was postponed due to the failure to ensure Mr. M.’s participation in the court hearing.

On 4 February 2021, the lawyer’s request to provide treatment for M. was left without consideration, because, in the opinion of the court, it could not be resolved in accordance with Art. 537 of the Criminal Procedure Code of Ukraine.

On March 17, 2021, the Kherson Court of Appeal upheld the decision of the court of first instance.

### ***L-ka’s case***

L. is serving his sentence in the Sofia Specialized Tuberculosis Hospital No. 55, where he was sent from the State Institution “Vilnyansk Correctional Colony No. 20”.

L. appealed to a lawyer at the end of December 2020 with complaints about the failure to provide him with medical care and failure of the responsible persons to submit documents to the court regarding his release from serving a sentence due to health conditions, despite a number of indications for this (HIV, hepatitis C, tuberculosis and comorbidities).

On December 11, 2020, the lawyer sent a request to the Branch of the State Institution “Health Center of the State Penitentiary Service of Ukraine” in the Zaporizhia region and to the hospital.

On January 5, 2021, the lawyer filed a motion with the court to release L. from serving his sentence due to his health condition.

On February 11, 2021, the court hearing was postponed due to the lack of an opinion of the medical advisory commission on L.’s health.

On March 31, 2021 and April 20, 2021, the court hearings were postponed due to the absence of Mr. L. at the hearing — his appearance was not ensured by the responsible persons.

On April 29, 2021, the court denied the lawyer’s request, citing the conclusion of the medical advisory commission. Mr. L. refused from legal assistance.

### ***M-sky case***

Mr. M-sky turned to a lawyer for failing to provide him with quality medical care at the Lviv Penitentiary Institution. Mr. M. noted that he had been suffering from diseases of the cardiovascular system for many years. He has had two heart attacks in recent years. After that, the cardiologist M. recommended surgery. However, the administration of the penitentiary institution, which refuses to take M-sky for treatment, became an obstacle.

On May 25, 2021, a lawyer sent a request to the Lviv Oblast Health Center to establish M.’s medical diagnosis. After that, the lawyer decided to send an application to the Darnytsia City Court of Lviv under Article 206 of the Criminal procedure code of Ukraine.

In July 2021, after another lawyer's complaint about M.'s inadequate treatment, the institution's staff came to M. and threatened him that if he and his lawyer did not stop complaining, M. would be transferred from the Lviv Penitentiary to another institution. Where there are no hospitals and doctors. M. denied that his health would be in an even bigger danger than, but the administration of the institution continued to mock him. M. suffered a nervous breakdown and a hypertensive crisis due to bullying by the administration. He called a lawyer and asked not to write anywhere else. He refused all persuasions to complain on the administration.

### ***P-tyy's case***

Mr. P. is serving his sentence in the Vinnytsia Penitentiary Institution No. 1 in the form of life imprisonment. On November 21, 2020, he turned to a lawyer for not providing him with medical care. He reported that he had a trophic ulcer on his leg, and doctors said he could amputate the leg, but did not provide any treatment.

On November 28, 2020, the lawyer submitted her request to the penitentiary institution to obtain Mr. P.'s medical records. In response, she was provided with medical records that did not mention a word about a leg ulcer.

To date, the lawyer has addressed the Representative of the Commissioner of the Verkhovna Rada of Ukraine in Vinnytsia Oblast with a request to visit the institution for Mr. P.'s treatment. Complaints have also been filed with the Vinnytsia Oblast Prosecutor's Office. In response, on January 10, 2021, the Vinnytsia Regional Prosecutor's Office announced that it had no authority in such cases.

Also, on February 10, 2021, the lawyer sent a request to the Health Center of the State Penitentiary Service of Ukraine to take P-tya to a civilian hospital for diagnosis, as the administration of the penitentiary institution is hiding his illness.

P-t refused the lawyer's help in May 2021 poky, explaining his decision by saying that he did not believe that he could be released from life imprisonment.

### ***Shv. case***

On July 16, 2020, S. addressed the lawyer. He said that he was serving a sentence in the Odessa correctional colony. S. suffers from

a number of serious illnesses, including stage 4 HIV and tuberculosis. Those illnesses give him the right to release from serving a sentence due to a serious illness.

On the same day, the attorney sent a request to the correctional colony to obtain medical documents. After receiving them, on August 18, 2020, the attorney sent a petition to release S. from serving the sentence to the Malinovsky District Court of Odessa. However, the date of the hearing has not been set yet.

In addition, the lawyer submitted an application to the Odessa correctional colony for S.'s medical advisory commission to establish the severity of his illness. The petition was granted. However, the medical advisory commission found that the severity of S.'s illness was insufficient for release.

On September 19, 2020, the attorney sent a request for medical conclusion mentioned above.

On September 19, 2020, the lawyer sent a request for the medical opinion mentioned above, but it was never sent.

The court hearing in the case is scheduled for January 2021. However, it did not happen.

During a court hearing on April 23, 2021, Sh-ts was denied his request for release from serving a sentence due to illness. The lawyer filed an appeal. On 22 September 2021 the lawyer's appeal was denied. According to the judge, Sh's state of health is not bad enough for his release.

### ***S-kova case***

S. is serving his sentence in the Sofiyivska Specialized Tuberculosis Hospital (No. 55) at the State Institution "Sofiyivska Correctional Colony (No. 55)" S. turned to the SLC for legal assistance due to the failure to provide him with medical care and the failure to submit necessary documents to the court by officials responsible for his release for health reasons.

According to S., as of December 28, 2020, he suffered strokes, after which he learned to walk again with the help of a neighbor in the cell. However, on June 28, 2020, he fell in the middle of the cell. After the cast, the picture showed that the bone did not grow together (due to age and conditions). In addition, he began the process of bone decay. Also, the left upper limb from the forearm to the hand does not work

in S. Thus, S. is a bedridden person, his life is counted in hours rather than days, and his condition only worsens with each passing day. Since S. cannot take care of himself, his cellmate does this. He does not even regain consciousness, pain and weakness are his constant companions when he is conscious. They tried to give him crutches, but he could not hold them.

Today, there is a real threat not to the health, but to the life of S. There is no hope to improve his condition.

Given the situation, on December 28, 2020, the lawyer immediately appealed to the court to release him on health grounds.

On 01.02.2021, 17.02.2021, 11.03.2021 court hearings were postponed due to S.'s medical treatment.

On April 14, 2021, the court meeting did not take place because the judge was hospitalized.

On April 29, 2021, the court hearing did not take place because the court did not know S.'s whereabouts, as it turned out that he was already in the hospital in Kherson.

On June 2, 2021, the court hearing did not take place, as Mr. S., on May 10, 2021, was already transferred to the Temnivska correctional facility no.100. The next court hearing was to take place on June 27, 2021, On June 27, 2021 in the Temnivska Hospital No. 100 Mr. S. died. According to the conclusion of the medical advisory commission Mr. S. had no diagnoses for release from serving his sentence.

#### ***Tka-v. case***

Mr. T. is serving a life sentence in the Dnipro Penitentiary Institution No. 4. He asked the SLC lawyer for legal aid because he was suffering from a serious illness, namely HIV-4. Mr. T. is entitled to be released from further serving his sentence in accordance with Article 84 of the Criminal Code of Ukraine.

On June 14, 2020, July 17, 2020 and September 8, 2020, the lawyer sent legal requests to the Dnipro Penitentiary Institution to establish the state of health of Mr. T. However, contrary to current legislation, she did not receive answers to her requests.

Therefore, on August 18, 2020 and October 14, 2020, the lawyer sent complaints to the Prosecutor's Office of Dnipropetrovsk region, the South-Eastern Interregional Department for Execution of Sentences and Probation and the Ministry of Justice. However, the authorities

stated that the lawyer allegedly did not have the authority to access the applicant's medical records.

Therefore, on 10 November 2020 the lawyer sent a motion for the T's release from serving his sentence to the Krasnogvardeisky District Court of Dnipro, in which she stated that she could not substantiate her petition with medical documents.

The court hearing was scheduled for December 16, 2020, but did not take place due to the failure to bring T to the court hearing.

The next court hearing is scheduled for December 24, 2020.

On 24 December 2020 during the court hearing, it was recognized that Mr. T was transported to the Bahmut penitentiary institution. According to this fact the Krasnogv daardisky court returned the motion to re-filling to another court.

On 18 January 2021 the lawyer filed a motion to the Bahmut town court in Donetsk region on releas Mr. T due to his gravious illness but the date of consideration has not been scheduled yet.

In April 2021 Mr. T refused from the legal assistance.

#### ***V-ko case***

Mr. V. turned to a lawyer for legal assistance. He said he was suffering from a number of serious illnesses, including stage 4 HIV. Based on his illness, he is entitled to release from serving his sentence. He is currently serving his sentence in the Raikiv Correctional Colony.

On October 27, 2020, the lawyer applied to the Raikiv Correctional Colony for medical documentation. However, the response to such a request was received only on December 6, 2020 and after complaints about the institution's inaction.

On December 7, 2020, the lawyer applied to the Berdychiv City Court to release V. due to illness. However, a court hearing has not yet been scheduled.

In February 2021 V died.

#### ***'V-payev's case***

On March 27, 2021, Mr. V.'s mother asked the Kharkiv Human Rights Group and reported that her son, who is serving a sentence in the Dnipro Correctional Colony No. 89, does not feel half of his body, cannot move independently, practically does not speak. During V.'s stay

in the Dnipro Correctional Facility, which has been going on for almost two weeks, his health is steadily deteriorating.

According to Mr. V., he felt unbearable pain all over his body and especially in his head. He received any treatment and examination only at his own expense (at the mother's expense).

Therefore, Mr. V. needs urgent examination and treatment to prevent irreparable consequences.

On March 29, 2021, the lawyer sent a motion to the court for an urgent obligation of the responsible persons of the Dnieper Correctional Colony to provide the necessary medical care to V. in the health care institution of the State Penitentiary Service.

On April 10, 2021, Mr. V. died.

### **Case of R-t**

R. is a disabled person of the 3rd group in oncology due to an illness that he received during his military service. Currently R. is in custody in the Kharkiv SIZO and needs adequate medical assistance.

R. applied to the SLC for legal assistance in order to organize his proper treatment. SLC lawyer intervened.

Since 26.09.2019 R. is held in custody.

In May 2020 Mr. R. turned to SLC for legal assistance.

On 29.05.2020 the lawyer of the SLC filed a complaint with the Oktyabrskiy District Court of Kharkiv about the failure to provide medical assistance to Mr. R.

On 23.06.2020 the court upheld the complaint of the SLC lawyer and ordered the medical unit of the SIZO to carry out the necessary medical examination and treatment of Mr. R.

On 04.11.2020, the lawyer of the SLC filed a criminal complaint with the Territorial Directorate of the SBI in the city of Poltava, reporting a crime that consisted of the abduction and illegal detention of Mr. R. The SBI refused the lawyer's request to enter the information specified in the application into the URPI

On 08.12.2020 the lawyer of the SLC filed a complaint with the Oktyabrskiy District Court of the city of Poltava against the decision of the SBI and asked the court to oblige the SBI to enter the information into the URPI.

On 14.12.2020 The Oktyabrskiy District Court of Poltava upheld the complaint of the SLC lawyer and ordered the SBI to enter information about the crime against Mr. R.

R.'s condition temporarily improved, however, at the end of September 2021, he again required medical attention. Requests for medical assistance were ignored and R. was forced to reapply to the SLC.

The SLC lawyer tried to get into the pre-trial detention centre for a meeting with R. together with a doctor with the necessary equipment, however, the pre-trial detention centre administration, hindering his work, did not let him in with the doctor.

The SLC lawyer filed a complaint with the Oktyabrskiy District Court, where he asked to oblige the SIZO to let the doctor to R. along with the equipment.

On 25.10.2021, the Oktyabrskiy District Court postponed the hearing to 28.10.2021 to obtain explanations from the SIZO administration.

On 26.10.2021 P. waived the SLC lawyer, which may be the evidence of pressure on him from the SIZO administration.

### **Yag-v. case**

Ya. arrived at the Selydivska Correctional Colony (No. 82) to serve his sentence. The latter complained to the SLC about the failure to provide him with medical care and the failure of the responsible persons to submit documents to the court regarding his release from serving his sentence due to his health condition, despite a number of indications (HIV and concomitant diseases).

On July 14, 2020, lawyer's inquiries were sent to the Medical Unit of the State Institution "Selydivska VK-82" and to the Branch of the State Institution "The Centre of Health Care of the State Criminal Executive Service".

On August 4, 2020, a petition was sent to the Selydiv City Court of the Donetsk Region for release from serving a sentence due to health conditions.

On August 20, 2020, a court hearing took place, in which the lawyer filed a motion to demand the opinion of the LCC.

On September 2, 2020, the court hearing was postponed because the Medical Unit of the State Institution "Selydivska VK-82" did not provide medical documentation to the court.

On September 7, 2020, the Selidovo court granted the request to release Ya. despite the absence of an opinion from the LKK, which, according to the colony's representative, could not be submitted to the court, as there was no material possibility in the colony to transfer J.

to the appropriate institution. At this time, Ya. began to provide the necessary medical care (ART therapy, hepatoprotectors), his condition began to improve.

On September 18, 2020, the lawyer submitted a lawyer's request to the Selydiv Correctional Colony State Institution (No. 82) to provide documents characterizing Ya. for filing a petition for Ya.'s parole.

On September 28, 2020, the lawyer received a copy of the decision to initiate appeal proceedings together with a copy of the appeal against the decision of the Selydiv City Court of the Donetsk Region of September 7, 2020.

On October 7, 2020, the lawyer filed an objection to the prosecutor's appeal.

On October 12, 2020, the court hearing in the Court of Appeal of Donetsk Region did not take place due to the lack of court composition.

On 10.27.2020 The Donetsk Regional Court of Appeal upheld the prosecutor's appeal and overturned the decision of the Selydiv City Court of the Donetsk Region of 7 September 2020.

On November 12, 2020, the court hearing on the parole of Ya. did not take place due to communication problems.

On November 23, 2020, on the court hearing on the parole of Ya., a lawyer and a prosecutor filed a motion to call witnesses and demand information.

On December 16, 2020, the court hearing on the parole of Ya. took place and lawyer's motion was denied.

The lawyer is preparing an application to the State Institution "The Centre of Health Care of the State Criminal Executive Service" for the transfer of Ya. to an institution where he would receive medical care and a medical advisory commission is functioning.

Mr. Ya later refused from legal assistance.

## **FRAGMENTS OF THE REPORTS CONCERNING THE MEDICAL CARE, ON 25 MONITORING VISITS TO PENITENTIARY INSTITUTIONS IN 2021<sup>1</sup>**

### **POKROVSKA CORRECTIONAL COLONY NO. 17**

The visit took place on 2 February 2021.

The colony is located in Pokrovske village, Donetsk community, Izium district, Kharkiv region. This colony is a medical facility and medium-security penitentiary for men sentenced to fixed-term imprisonment suffering from tuberculosis. The colony also has a pre-trial detention centre unit, which houses suspects who have been diagnosed with tuberculosis or who need treatment. In addition, convicts are sent to the colony for treatment, not only from the Kharkiv region, but also from all over Ukraine. 261 people were in the colony at the time of the visit. The planned capacity of the institution is 711 people. The colony has been operating since 1961. In 1995, a tuberculosis department started operating in the institution.

There is a modern laboratory on the territory of the colony, which is equipped with the latest tools, which allows to diagnose tuberculosis in a short time and provide the most effective method of treatment for chronic diseases. Such equipment was purchased at the expense of international funds. Last year, a new X-ray machine was purchased with state funds, and the state fully provides all medical supplies. Last year, almost 1,000 studies were conducted in the laboratory. In addition, the hospital determines the viral load of HIV infection.

As of 1 February 2021, 10 positions are vacant in the hospital.

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<sup>1</sup> Authors are Andriy Didenko, Yevhen Zakharov, Serhiy Zuikov, Anna Ovdienko, Maksym Revyakin, Pavlo Schwab.

According to the head of the medical unit, in 2019 35 people were released from serving their sentences due to their health condition, and 34 people in 2020. At present, the court is considering 4 applications for release from further imprisonment.

Four lethal cases were documented in the institution in 2019, 2 cases in 2020. There is also a dental office in the medical unit of the colony, where treatment is performed and fillings are administered.

In addition, there is an intensive care ward in the medical unit, which has the necessary medical equipment: cardiograph, ventilator and more.

<https://khp.org/1608808813>

### **KHARKIV CORRECTIONAL COLONY NO. 43**

The visit took place on 18 March 2021.

The colony is located in Kharkiv in the KhTZ vicinity (Industrial district). The facility is a medium-security penal colony for men sentenced to a fixed term who have previously served their sentences. The planned capacity of the colony was 980 people, and on the day of the visit there were 790 convicts in the colony. According to the staff list, the colony has 306 employees, and in fact 260 positions have been filled. The colony began its work in 1943 as a camp for German prisoners of war.

According to the head of the medical unit of the institution, Drokin Denis Gennadyevich, it is provided with 100% of all necessary medicines, equipment and means of prevention of viral infection COVID-19. However, according to the Journal of medicines handed to convicts by relatives, it can be seen that even bandages, analgin and other drugs are missing. A particular attention should be paid to this situation, as the heads of almost all medical units of Ukrainian colonies say that there are enough medicines, but the journals of medicines handed over by relatives of convicts show the opposite.

The head of the medical unit has also reported that around 60% of the convicts in the institution suffer from hepatitis.

At the time of the visit, there were 6 people in the inpatient department. Given the total number of convicts (790 people), it can be concluded that people there are either almost not ill (despite the fact that most convicts have weak immunity due to HIV [56 people] and hepatitis), or the treatment they receive, is inappropriate.

In addition, according to the first deputy head of the colony, no convicts fell ill during the whole period of the pandemic in the colony, because the management of the institution treats the employees according to the principle “if you feel sick, you better not go to work”.

We would like to mention the special housing department No. 13 for people who have contracted tuberculosis. The department has old cosmetic repairs. In the dining room, the walls above the windows and in the corners of the room are covered with mould. For convicts serving their sentences in this unit, there is a separate dining room, the dining hall of which is small. Traces of old floods and mould are also visible in the living rooms. As in the whole colony, there is overcrowding in this department. In addition, some rooms have completely closed windows, so daylight does not enter these rooms. The toilets are outdated and in need of repair. The partitions are quite low, which violates privacy. Urinals do not work.

<https://khp.org/1608808945>

### **KHROLY CORRECTIONAL CENTRE NO. 140**

The visit took place on 25 May 2021.

Khroly Correctional Centre is located in the village of Khroly, Kharkiv district, Kharkiv region. It should be noted that finding the centre was quite difficult, because it does not have any identification marks and names on the fence at the entrance to the territory.

There is no medical unit in the institution. There is no paramedic, and there are no medications. If medical care is needed, convicts must write an application to visit a local hospital accompanied by a representative of the administration. There is also the problem of providing medical services to convicts without a passport, as they cannot make a declaration with a doctor. During the current year, ambulances were called to the convicts 18 times, 89 visits to the doctor's consultation and 8 hospitalizations of convicts were made. 5 representatives of the administration of the centre were ill or are suffering from coronavirus.

<https://khp.org/1608809151>

### PERVOMAISKA CORRECTIONAL COLONY NO. 117

The visit took place on May 5, 2021. The colony is located in a field near the village of Hrushine, Pervomaiska community, Lozova district, Kharkiv region. This colony is a minimum security facility for men sentenced to a fixed term, with general conditions of detention. At the time of the monitoring visit, 222 people were in the colony, and the number of the administration was 180. Planned capacity — 650 people. The colony has been operating since 1983.

At the time of the visit, there were 8 people in the inpatient department of the medical unit. According to the Journal of the medicines handed by the relatives, almost only symptomatic drugs are transferred to the institution. According to the acting head of the medical unit of the colony, the medicines should arrive at the institution soon. There is no record in the Journal of injuries for 2020 and this year. Monitors are concerned about this situation and believe that no injuries were recorded in the colony, as the colony has a production facility where convicts are injured from time to time under any circumstances.

The staff of medical workers is not full. In addition, the head has been absent for almost six months.

The medical unit noted that there are 21 people living with HIV in the colony, one of whom has stage IV. There are no people taking SMT.

Only one death was recorded in the colony in 2020, according to a representative of the medical unit, the convict died as a result of intestinal obstruction (intestinal inversion). In 2021, at the time of the visit, no deaths were recorded in the colony. Also, a representative of the medical unit said that fluorography is done once a year. There is a dentist in the medical unit — according to the representative of the medical unit, treatment and fillings are provided.

*<https://khp.org/1608809159>*

### KHOLODNOHIRSKA CORRECTIONAL COLONY NO. 18

The visit took place on June 11, 2021. Kholodnohirska correctional colony No. 18 is a medium-security penitentiary institution for men sentenced to imprisonment for the first time. At the time of the visit, there were 474 convicts in the institution. The planned capacity of the

institution is 915 people. Over the last year, 8 convicts were released on parole.

During the conversation with the monitors, the head of the medical unit said that there was no shortage of medicines in the institution. In addition, the monitors had the opportunity to inspect the pharmacy of the institution, where they saw the availability of drugs with different spectra of action. However, while reviewing the journal of medicines received from relatives of convicts, the monitors could not help but notice that relatives pass the simplest medicines to convicts. However, doctors at the institution said that this was not due to a lack of medicines. Moreover, the doctors emphasized the high level of cooperation between the institution and the Health Centre. In particular, in the absence of a certain drug, its delivery to the institution can be carried out within a few hours, as the institution is located in close proximity to the Kharkiv pre-trial detention centre, where the warehouse of medicines is based.

The monitors also had the opportunity to visit the wards of the medical unit of the institution, which were clean and repaired. Doctors have demonstrated a special bed that can be raised and lowered, as well as change the angle, if necessary. The convicts in inpatient treatment did not complain about the quality of treatment.

During the current year, an ambulance was called twice to the penitentiary institution.

No convict has been released from further serving a sentence due to a serious illness.

The medical unit also has a modern dental office. According to the administration, the dentist has free filling material, but it is of low quality — in particular, there are no photopolymer fillings in the institution. The monitors also inspected a modern X-ray machine that can perform X-rays of the jaw directly in the dentist's office.

The facility also has a fluorograph.

According to the administration of the institution, none of the convicts contracted the coronavirus during the pandemic. At the same time, PCR tests were delivered to the institution, which can be used if necessary. The institution keeps records of such tests, 33 of them were conducted in the last month.

*<https://khp.org/1608809390>*

**KRYVYI RIH PENITENTIARY INSTITUTION NO. 3**

The visit took place on July 2, 2021. The institution is located in the city of Kryvyi Rih, Dnipropetrovsk region, built on an Italian project in the form of a circle. The courtyards are located on the roof, and the windows all face the outside. The main function of the institution is a pre-trial detention centre. There is also a sector for people sentenced to life imprisonment, located on the fifth floor. The total number of convicts in the institution at the time of the visit was 662 people, of whom 82 convicts are serving life sentences. Estimated number of beds is 728.

90 are on record with HIV/AIDS, that is, every seventh person.

In 2021, there were 9 ambulance calls. During 2020–2021, 30 cases of bodily injuries were recorded, respectively 15 per year;

In 2020, special means were applied to prisoners (convicts) 9 times, in 2021 — 3 times.

In 2020 and 2021, 8 people died.

During the entire period of quarantine, 3 persons with a diagnosis of COVID-19 were registered among convicts and detainees.

Once on the territory of the institution at the beginning of the visit, the monitors met a woman who was moving quickly to the exit. Then it turned out that this woman was the head of the medical unit. The deputy head of the colony asked her a question: “How will the medical unit work? To which the head of the medical unit replied that she was after the day shift and that she had already worked off her shift. Only then did the consequences of such haste become clear.

Monitors were not allowed on the territory of the medical unit at all. The woman, who introduced herself as Olena Leonidovna Urzhenko, flatly refused to provide any documents, journals, etc. for verification.

In our opinion, a systematic concealment of human rights violations in the medical field is carried out in such a way.

When asked to provide a written refusal of admission to the territory of the medical unit and the relevant journals and documentation, the paramedic replied that at the oral request of the monitors for admission, she gave an oral refusal: “I do not provide any documentation”.

Information on the medical care provided to convicts/detainees in penitentiary institutions with chronic and infectious diseases (such as HIV/AIDS, etc.), as well as many others, could not be verified.

We would like to recall that during the previous monitoring visit in 2019, attention was focused on human rights violations in the medical sphere: “The biggest problem is the level of medical care, or rather its absence. Despite the fact that the acting head of the medical unit V. V. Kartashova refused to provide monitors with journals on the activities of the medical unit, the head of the institution said that the situation was critical”.

The most recent information is received from the Office of the Human Rights Commissioner of Verkhovna Rada, received during the unannounced visit as part of NPM of 28 May 2021. The following conclusions were drawn in this institution:

“Medical examination of newcomers is carried out through the bars with which the examination room is equipped”.

“The violations of the right of prisoners to health care and medical assistance were also discovered in the institution”.

“It has been established that prisoners do not undergo a full initial medical and preventive examination due to the absence of a psychiatrist, surgeon and therapist. Fluorographic and X-ray examinations have not been performed since March 2020, which leads to inadequate medical care and non-compliance with the requirements of infection control for tuberculosis in the institution”.

We publish the monitoring conclusions of past visits because our monitoring group was not admitted to the medical unit of KPI-3 at all.

It is the first time in the practice of the unannounced visits of KHPG, when monitors were not allowed into a particular unit after they entered the facility. It will be recalled that hundreds of visits were made to various institutions and establishments of the penitentiary system and monitors were able to visit any premises and places without restrictions. And we believe that such actions are an obstacle to the work of a member of the public council at the Ministry of Justice, as well as an obstacle to the journalists in the performance of their professional duties. Such actions by representatives of the medical unit are a gross violation of Article 24 of the Criminal Procedure Code of Ukraine.

*<https://khp.org/1608809289>*

**ZAMKOVA CORRECTIONAL COLONY NO. 58**

The visit took place on July 5 2021.

It is a maximum security level colony for detainees convicted of serious crimes who were previously convicted. The colony has a sector for life imprisonment. The colony is located in the town of Izyaslav, Khmelnytsky region, in the monastery of the Order of the Bernardine Fathers, a former Roman Catholic monastery complex, founded in the early XVII century,

The number of employees is 251, of convicts — 198 with 402 estimated sleeping places.

There are 7 people registered with HIV/AIDS, and 21 prone to suicide. Ambulance was not called in 2021, with 3 persons with injuries were recorded in the journal in 2021, special means were used twice in 2021, no convict died in the period 2020–2021.

According to the head of the medical unit Vasyl Vasyliovych Bondar, he has been working in this institution for 27 years.

There was no journal of injuries to newcomers. All injuries are recorded in one journal.

25 convicts became ill with COVID-19, and 235 employees of the administration were vaccinated with the first dose of the vaccine.

The head of the medical unit says that he is satisfied with the provision of the institution with medicines and equipment.

The fluorography machine is working, no active form of tuberculosis has been detected in the last three years, HIV/AIDS patients are receiving antiretroviral therapy. Two convicts with hepatitis have been treated and are receiving treatment. There is the IDIS device — the system of decoding of cardiograms — medical documentation of the patients in electronic version.

Convict K., born in 1969, asked for help in prescribing him a diet due to a stomach ulcer and feeling unwell. The doctor on duty promised to facilitate this, even made an entry in the journal, and the convict wrote his own statement. But later the convict's wife called and said that K. had been denied dietary food. By the way, as it turned out, only two convicts use dietary food — one who is in inpatient treatment and one sentenced to life imprisonment.

An inspection of the journal of bodily injuries revealed a case in which the convict K. had committed an injury, namely, he had nailed

his own foot to the floor. No certificate or photo has been added to this entry, as required by the relevant instructions. However, at the request of the monitors, the head of the medical unit brought the relevant certificate, and showed the photo from the computer monitor screen. The head explained the lack of photos in the medical card by the fact that it is not possible to print photos.

When asked about the reasons for such an act, convict K. answered that the incident was over and he had no complaints about the actions of the administration. However, there is improper record keeping.

<https://khp.org/1608809302>

**VINNYTSIA PENITENTIARY INSTITUTION NO. 1**

The visit took place on July 6, 2021. It is one of three institutions in the former USSR with a prison regime. It has been operating as a prison since 1822.

The total number of prisoners in the institution is 1,091, of whom 723 are under investigation and 338 are sentenced to life imprisonment. The estimated number of beds is 1236. The number of administrations is 67 of middle and senior management, 177 privates and juniors.

40 people are diagnosed with HIV/AIDS. In the medical unit, 14 people are on inpatient treatment.

Between 2020 and 2021, there were 33 ambulance calls, 25 cases of injuries, 4 cases of the use of special means, 9 deaths.

During the pandemic 2 convicts and 22 employees contracted COVID.

The acting head of the medical unit reported 2 cases of COVID-19, about 300 express tests were performed. The medical unit is understaffed, there is no head of the medical unit and no infectious disease doctor. The staff includes a TB doctor, a radiologist, a dentist, and a venereologist. They are fully provided with emergency medical supplies, as well as disinfectants.

Of the 40 people living with HIV/AIDS, 38 are receiving antiretroviral therapy. Of the 29 people with hepatitis, 14 have received treatment, others are waiting for supplies. 4 people with the active form of tuberculosis are provided with the necessary medicines. All prisoners undergo IDIS.

The newest X-ray machine works in the medical unit.  
 Medical records are not kept: no injuries and photos are attached to the patient's card.

<https://khpq.org/1608809362>

### **KOROSTEN CORRECTIONAL COLONY NO. 71**

The visit took place on 25 July 2021.

It is a medium-security facility for men sentenced to imprisonment for the second time. At the time of the visit, 741 convicts were serving sentences in the institution. There are 13 operating residential departments in the institution, there are no temporarily closed premises. During the current year, 32 people were released on parole. The institution was founded in 1947, and its construction was completed in 1956.

Two people were treated at the inpatient department during the visit. The medical part is provided with medicines on a satisfactory level. However, from time to time doctors still face the lack of the simplest drugs. Thus, at the time of the visit there was no citramon. Therefore, relatives of convicts are forced to pass such drugs. There are anti-epidemiological protection tools and express tests.

<https://khpq.org/1608809387>

### **ZAMKOVA CORRECTIONAL COLONY NO. 58**

The visit was carried out on July 21, 2021 by another group of monitors, as many unresolved issues remained after the visit on 5 July.

At the time of the visit, no convicts were on the inpatient treatment. According to the staff list, the medical unit has 10.5 full-time positions, and in fact there are 10 full-time positions (there is the half-time vacant position for a therapist). Since the beginning of the year, only three cases have been recorded in the Journal of personal injuries, and two in 2020, which is an extremely low number for an institution where 198 people are serving their sentences. This leads monitors to believe that such a journal is improperly maintained or that medical examinations of convicts for injuries. Are improperly organized. No deaths have been reported at the facility this year.

The dental office has a filling material for photopolymer fillings. The facility has a stockpile of express tests for HIV, hepatitis and coronavirus, as well as an oxygen concentrator.

According to the head, the medical unit is fully provided with the necessary basic medicines. He even demonstrated the presence of some of them. However, in the Journal of records for the receipt of medicines for convicts from relatives, it is registered that relatives hand over to convicts such simple medicines as iodine, band-aids, paracetamol, ibuprofen, etc.

The report on the results of the previous monitoring visit sets out the situation with the convicted K. regarding the provision of dietary food to him. The monitors decided to find out why convict K. was denied a diet. The head of the medical unit explained in detail that he could not prescribe K. dietary food, because according to the Instruction governing the provision of dietary nutrition, its appointment is possible only to a person who is in inpatient unit. In addition, the head added that the convict had previously received such food. The doctor also showed written explanations of the convict K., who stated that he no longer had any claims against the institution. Mr. K. confirmed to the monitors that such explanations were voluntary.

<https://khpq.org/1608809394>

### **ZHYTOMYR CORRECTIONAL COLONY NO. 4**

The visit took place on 23 May 2021.

This colony is located in the city of Zhytomyr, near the local central bus station. The institution has been operating since 1933 and occupies a fairly large area, which is unusual for a penitentiary institution located in a densely populated area of the city. It is a medium security colony for men sentenced to imprisonment for the first time for serious and especially serious crimes.

The planned capacity of the institution is 1,240 people, 937 convicts were serving their sentences on the day of the visit. It should be noted that due to the mass closure of penitentiaries in the last two months, more than 200 convicts came to the colony, which is already leading to overcrowding of housing units — even with incomplete settlement of the colony.

According to the staff list, there are 243 administrative staff positions in the colony, and 206 staff positions have actually been filled.

According to the staff list, there are 16 employees in the medical unit, but only 12 were employed on the day of the visit. There is no infectious disease doctor or paramedic. According to the head of the medical unit, the institution is fully provided with medicines. Moreover, the institution does not generally accept transfers of drugs from relatives. The head of the medical unit considers it superfluous. Therefore, the institution does not keep the relevant medical records, which must be in each medical unit of the HC of SCES in accordance with the joint order of the Ministry of Justice and the Ministry of Health No. 1348. The institution is also equipped with coronavirus test systems and express tests for HIV and hepatitis. At the same time, according to the head, since the beginning of the year no tests for CD4 cells have been conducted due to the lack of cartridges for laboratory equipment.

No one was in the inpatient unit. The monitors found this strange for a colony in which nearly a thousand people serve their sentences. The head of the medical unit said that there should be no inpatient unit in the institution at all, and the medical unit is an outpatient department. It also sounded strange to the monitors, because according to the current legislation, inpatient units are created at medical units.

Twelve cases of injuries to convicts have been recorded at the facility this year, which is also surprising for such a large institution. During the year, four convicts died in the institution. No convict was released from serving a sentence for health reasons. Moreover, the institution does not have a medical advisory commission.

During the current year, the convicts were hospitalized five times in the institutions of the MoH.

During the pandemic, 7 convicts fell ill with coronavirus disease.

The monitors inspected the dentist's office. During the conversation, he said that he receives an average of 5 to 7 convicts a day. The dentist demonstrated the available filling material, which was already running out. The doctor noted that such material is in short supply.

*<https://khpg.org/1608809397>*

## SHEPETIVSKA CORRECTIONAL COLONY NO. 98

The visit took place on 22 July 2021.

It is a medium security colony for men sentenced to imprisonment for the first time. At the time of the visit, 401 people were in the colony. Planned capacity is 1,043 convicts. The institution is located in the village of Klymentovychi, Shepetivsky district, Khmelnytsky region. It is the largest colony in Ukraine with an area of 72 hectares. The colony has been operating since 1962.

There is a dentist's office in the medical unit equipped with filling material. The dentist works full time and receives an average of five people a day. The head of the medical unit assured the monitors that there were enough medicines. Express tests for HIV and coronavirus are also available. Since the beginning of the year, the Journal of personal injuries has recorded two cases, which is extremely low for an institution where more than 400 people are serving their sentences. This suggests the improper maintenance of such a journal or the improper organization of the procedure for examining convicts for bodily harm.

At the time of the visit, 12 convicts were in outpatient treatment. According to the staff list, nine people work in the medical unit. One convict died in the medical unit this year. The cause of death was heart failure. During the year, two cases of injuries to convicts were recorded — injuries received during the everyday activities. So far, one case of tuberculosis has been registered. 11 convicts with hepatitis C and 7 convicts with HIV are serving sentences in the institution. According to the head of the medical unit, there are no registered cases of coronavirus among the convicts. Since the beginning of the coronavirus pandemic, 18 employees of the administration have fallen ill. At the time of the visit, all willing employees were vaccinated.

The institution has an interregional hospital with a capacity of 100 beds, 40 of which were occupied at the time of the visit. The hospital consists of three units — therapeutic, surgical and dermatological. The surgical department is equipped with an operating room. The hospital is licensed to practice medicine and use drugs. However, the convicts claimed that the surgeries are often delayed for several months.

The multidisciplinary hospital has cells for life imprisonment. Such cells are in the state of disrepair. Mould on the walls, the bath-

room needs major repairs. However, the administration of the colony explained that it has no right to carry out repairs in the hospital, as this will be a misuse of funds, and the Health Centre did not allocate money for repairs in 2021.

Other wards are also in a state of disrepair. Traces of past floods and mould can be seen on the ceiling and walls. Linen is old and dirty. Sanitary facilities are in the state of disrepair and in need of repair.

The interregional hospital has separate wards in case of infectious diseases of convicts, equipped with a ventilator and an oxygen concentrator.

The head of the medical unit assured that the hospital was fully provided with all necessary medicines. However, when talking to inmates who were in inpatient treatment, the vast majority of them reported that they were given only the simplest symptomatic drugs (noshpa, analgin, ibuprofen, etc.), and even said that these drugs were not available for short periods. Some convicts noted that treatment was better in conventional medical units than in specialized hospital.

The monitors also spoke to the convict who needed the help of a urologist. However, after the closure of the Bucha Correctional Facility, there are no more specialized institutions with a urology department in the SCES system, therefore, there was no one to perform the prescribed surgery in penitentiary hospitals, and the specialized hospitals have no desire to cooperate with civilian hospitals, as it seemed to the monitors. In addition, another convict complained that he should be taken to the Lviv Multidisciplinary Hospital for diagnosis, but for unknown reasons the latter has been refusing to accept him for such a diagnosis for four months. There are no other penitentiary hospitals that could make such a diagnosis.

The convicts complained about the lack of quick transfer from the institution after treatment.

<https://khpg.org/1608809400>

### **BILA TSERKVA CORRECTIONAL COLONY NO. 35**

The visit took place on 6 August 2021.

The planned occupancy of the colony is 782 persons. 616 convicts were in the colony at the time of the visit.

In 2020, 474 people were serving sentences in the colony, which is an increase of almost 150 people compared to 2020. This increase is due to the fact that in 2020 the Bucha Correctional Colony No. 85 was liquidated.

There are 87 people registered with HIV/AIDS (85 people are receiving antiretroviral therapy), 4 are prone to suicide. Ambulance was called 6 times in 2021 (19 times in 2020), injured in the journal in 2021 — 20 people (14 in 2020), special means in 2021 were used 4 times (0 times in 2020), one convict died (cause of death — suicide).

In the medical unit, the monitors saw more than 20 convicts standing in line for medication and procedures. Two people were in inpatient treatment in the medical institution, three more people were in quarantine after long visits.

According to acting head of the medical unit Goncharuk Viktor Vasyliovych, the institution is fully provided with medicines. However, the drug transfers from relatives are usually not accepted. Acting head of the medical unit says that he does not know the procedure for receiving such transfers.

During the current year, twenty cases of bodily injuries were recorded in the institution, which was recorded in the relevant journal, at the same time the medical records of outpatient treatment 025/o do not contain the certificate concerning such injuries and appendices to it in the form of photographs of existing injuries, as provided for in paragraph 3 of section 1, Chapter II of the joint Order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine of 15.08.2014 No. 1348/5/572 “On approval of the Procedure for organizing medical care for convicts”.

Ambulance was called 6 times in 2021 (19 times in 2020), on the day of the visit 10 people were in hospitals outside the correctional colony.

Within a year, one convict died in the institution (committed suicide by hanging).

<https://khpg.org/1608809417>

### **LVIV PENITENTIARY INSTITUTION NO. 19**

The visit took place on 13 August 2021.

The planned capacity of the institution is 1,072 people, at the time of the visit the institution had 725 people. The institution has a pre-tri-

al detention centre, a maximum security sector for life imprisonments, and an inter-regional multidisciplinary hospital. According to the staff list, the institution has 290 employees, but only 257 positions are occupied. The administration of the institution noted that there is a shortage of junior staff.

At the penitentiary institution there is an interregional hospital with three departments: oncology, therapy and surgery. This institution is the only one in Ukraine with an oncology department. At the time of the visit, 51 convicts were in the hospital. The last time convicts were taken to the institution was on August 12, 2021. We would like to remind, earlier in several correctional colonies the convicts and administration complained that the Lviv interregional hospital doesn't accept patients because of repair work. However, this information was not confirmed. Repairs in the corridors and wards of the units are indeed partially carried out, but patients are regularly admitted to the hospital, which is confirmed by the relevant journal.

In the last year, four convicts were released from the institution due to a serious illness. According to the monitors, this is a very low figure for an institution with an interregional hospital specializing in cancer. This suggests that the medical advisory commission at the interregional hospital does not carefully study the materials submitted to it or such materials are not submitted at all.

The hospital staff acknowledged that the level of drug supply was satisfactory, with some drugs missing from time to time. Also, one of the doctors admitted that there is a shortage of drugs needed for chemotherapy, and relatives of convicts are forced to buy them at their own expense to complete the necessary course of treatment. In addition, the institution has not conducted radiation therapy since the beginning of the 2000s. Although the doctor assured that the treatment was supposed to be successful even in its absence, this is questionable by monitors, as such an approach contradicts approved international clinical protocols.

The monitors intended to check the availability of narcotic painkillers for palliative cancer patients, but initially the doctor refused to provide access to such information and drugs. He later agreed, but it immediately became clear that currently palliative care is not provided to anyone, and the remains of drugs are not stored in the institution. Therefore, there are no drugs for the organization of palliative care for

convicts, and to obtain them one would need to write a request to the Health Centre, which, of course, will require time during which the patient will experience constant severe pain.

An ambulance has been called to the penitentiary ten times this year.

The interregional hospital is actively conducting surgeries, there are a sufficient number of surgeons (including oncologists), and there is also a license to use narcotic anesthesia. Monitors have reviewed operational journals and confirmed that surgeries are conducted frequently. The convicts did not complain about the quality of medical care provided by the surgeons.

However, the hospital has a problem with diagnosing cancer. In particular, the institution does not have its own CT or MRI machine, and conducting such studies in MoH hospitals is complicated by the lack of funding and, in some cases, the reluctance of MoH hospitals to interact with the penitentiary institutions.

The wards of the inter-regional hospital differ significantly in appearance and equipment of the premises. In one of the wards the toilet and the washbasin are in an emergency and unsanitary condition. The monitors also found an open voltage source (socket in an emergency state), so convicts have to plug electrical appliances directly into uninsulated electrical outlets. The premises are infested with cockroaches.

In another ward, monitors saw young and healthy convicts in the ward that was much better in appearance and equipment than the others. Monitors are aware of the practice of convicts using corruption schemes for spending months or even years in hospital without valid medical records. Monitors believe that this is probably the case.

In another ward, monitors found convicts using a kettle that was immersed in a plastic bucket. Please note that the use of boilers, especially in combination with flammable plastic buckets, is prohibited by fire safety regulations. Also, many rooms are infected with mould.

As they passed through the corridor of the medical unit, the monitors saw signs of a previous fire, possibly due to a power outage. Monitors suggest that the ongoing repairs in the corridors are to eliminate the effects of such a fire.

In addition, in one of the wards, the monitors saw significant problems with the roof, as well as significant leaks from the ceiling.

The monitors spoke with hospital patients who did not complain about the quality of care at all.

After that, the monitors visited the medical unit that serves the penitentiary institution where the convict was after the stroke. He complained about the lack of full medical care.

*<https://khp.org/1608809432>*

### **LYCHAKIVSKA CORRECTIONAL COLONY NO. 30**

The visit took place on 14 August 2021.

It is a medium security facility for men who have been re-sentenced to imprisonment. The colony was founded in 1946. Today 592 people are serving their sentences in the colony. The institution has 234 employees, but the staff of junior inspectors is not more than thirty percent.

9 residential units out of 10 are not repaired. The monitors visited two unrepaired units, as the administration assured that conditions were roughly the same in all these units. Visited units are in a state of disrepair. The dormitories have old frame beds, some of which are bunk beds, which contradicts European penitentiary rules. Renovation of living quarters is very outdated, there are traces of past floods on some walls and ceilings, there is fungus and mould. The vast majority of living quarters have old wooden windows. In some rooms, daylight is almost invisible due to the small size of the windows and because the curtains are covered with old rags.

The housing units of the institution are characterized by uninsulated sources of electricity, which pose a significant threat to the lives and health of convicts.

There are no drinking water tanks in the dining rooms in the unrepaired units. The administration of the institution said that the tap water is fit for consumption.

Sanitary facilities in unrepaired units deserve special attention. They are not just in an improper, but in a terrible state. There is an unbearable stench in the premises, it is impossible to go to the toilets. It is very dark in the bathrooms. There are no doors in the toilets, and the partitions are quite low, which does not allow convicts to have privacy. The bathrooms are in disrepair and need immediate overhaul.

In sanitary premises, as well as in residential ones, walls are covered with fungus, but here it is even more severe because of humidity.

There were no convicts in the inpatient ward on the day of the visit. The paramedic on duty said that the institution was provided with medicines. During the current year, an ambulance was called to the institution 14 times.

The Journal of injuries for the current year recorded 11 cases. According to the paramedic, the newly arrived convicts are undergoing PCR testing for coronavirus disease in their own laboratory, as well as research on the viral load of HIV and various types of hepatitis.

*<https://khp.org/1608809443>*

### **RAYKIVSKA CORRECTIONAL COLONY NO. 73**

The visit took place on 16 September 2021.

The planned capacity of the colony is 908 people. At the time of the visit, 601 convicts were in the colony.

The monitors inspected the equipment and wards that accommodated the convicts who were in the medical unit. At the time of the visit, 2 patients were in the inpatient ward in the medical unit, no complaints or remarks were recorded, and the convicts themselves assessed the provision of medical care as appropriate.

The head of the medical unit said that there were 57 people registered with HIV/AIDS in the colony; 5 convicts receive substitution therapy; ambulance was called 12 times in 2021 (10 times in 2020).

In the last three years, there have been 8 deaths in the institution. In the medical part of the institution / institutions of the Ministry of Health: in 2019 — 3/1, in 2020 — 3/2, in 2021 — 2/2.

10 persons are recorded in the Journal of injuries on 2021 (11 in 2020), at the same time, the medical records of outpatient treatment 025/o do not have the information about the injuries, as well as appendices to them in the form of photographs of existing injuries, as provided in paragraph 3 of Section 1, Chapter II of the joint Order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine of 15.08.2014 No. 1348/5/572 "On approval of the Procedure of organization of medical care for convicts". There is no provision

of photographic equipment needed to record and document injuries. Also, the medical unit is not provided with direct telephone communication.

<https://khpg.org/1608809571>

### **BERDYCHIV CORRECTIONAL COLONY NO. 70**

The visit took place on 16 September 2021.

It is a maximum security colony with a planned capacity of 760 people, in which male prisoners convicted of premeditated especially serious crimes serve their sentences, as well as men transferred from medium security colonies for malicious violations of the detention regime and convicts who committed crimes while serving their sentences. Those sentenced to life imprisonment are held in a separate sector. The institution is located in Berdychiv. The institution was built during the reign of Empress Catherine II and served as a transit prison.

The staff of the institution is 330 people, the total number of convicts in 2020 is 213, in 2021 — 211. 26 people are registered with a diagnosis of HIV/AIDS, they do not receive substitution therapy; 7 people are prone to suicide and 4 to escape; 49 convicts were identified as malicious violators of the detention regime.

In 2020, there were 26 ambulance calls, in 2021 — 18. In 2020 and 2021, no injuries were recorded during the arrival of convicts.

2 people are being treated at an institution of HC of the SCES. There are 15 people in the medical institutions of the Ministry of Health.

The medical unit is in a state of disrepair and needs major repairs and new equipment. The wards are in satisfactory condition.

There is no fluorography device — once a year convicts are examined using the equipment of a civilian hospital, which is brought to the institution.

The X-ray machine is working, but it is very old (40 years old) and needs to be replaced.

There is a dental office, the dentist admits the patients.

The journal does not properly document the injuries, there are no photos of injuries due to lack of appropriate equipment.

<https://khpg.org/1608809565>

### **KOROSTEN CORRECTIONAL COLONY NO. 71**

The visit took place on September 17, 2021. It was carried out to obtain additional information to the data obtained during the visit to the institution on July 25 this year.

The medical unit has an infectious isolation ward and a separate room for the isolation of persons suspected of having COVID-19, with a capacity of 40 beds.

As of the day of the visit, convicts with signs of acute respiratory infection, including those suspected of COVID-19, were absent.

In the medical unit, the monitors saw more than 10 convicts standing in line for medication and procedures. There are 5 people in inpatient unit in the medical institution.

According to the head of the medical unit, the institution is fully provided with medicines.

During the current year, 17 cases of bodily injuries were recorded in the institution, which was recorded in the relevant journal. However, there was no record of the prisoner being held in the SIZO unit (we wrote about him above).

As explained by the head of the medical unit, photos of existing injuries are not added due to lack of technical equipment (camera, tablet...). Also, the medical unit is not provided with direct telephone communication.

Ambulance was called 5 times in 2021 (5 times in 2020).

Two convicts died in the institution within a year.

None of the convicts was released from further imprisonment due to a serious illness.

The medical unit also has a dental office equipped with medical supplies and filling materials.

<https://khpg.org/1608809576>

### **KROPYVNYTSKIY CORRECTIONAL COLONY NO. 6**

The visit took place on 1 October 2021.

At the time of the visit to the institution, the staff was 218 people with an actual staff of 200, 1 psychologist working with staff and 2 working with convicts.

The total number of convicts in 2020 was 516 people in January, 425 in December; in 2021 — 425 people in January, 398 in December; 3 people died in the institutions of the Ministry of Health and the medical unit of the institution died: in 2019, 8 in 2020 and 4 in 2021.

10 people were treated at the medical institution of SCES on the territory of the colony. 49 people are registered with HIV/AIDS, of which 48 people are receiving ART therapy. 6 people are prone to suicide, in 2020 1 suicide was committed. In 2020, ambulances were called 20 times, in 2021 — 18 times. In 2020, 2 injuries were recorded upon arrival at the institution, and 5 during the stay.

249 people have been tested for SARS-CoV 2 (LgG, LgM) since the beginning of the year.

The premises of the medical unit are in the state of disrepair and need major repairs. There is no therapist in the state. Due to the lack of a diagnostic laboratory and fluorographic or radiological apparatus, the medical unit is not able to conduct a full preventive medical examination. There is a dental office, an examination room, a quartz lamp.

Wards, restrooms, and a boiler for heating water were inspected. A convict, who is a disabled person of the 2nd group, was kept in an improper condition in a cell called “For the Mentally Ill”, which does not meet the basic requirements for human detention.

*<https://khp.org/1608809680>*

### **KROPYVNYTSKYI PRE-TRIAL DETENTION CENTRE**

The visit took place on 1 October 2021.

The staff of the institution is 206 people, with the actual number of 174. The institution has a department for work with staff — 1 psychologist, and the department of social educational work — 2 psychologists.

In 2020, the total number of prisoners in the institution was 454 people, in 2021 — 436 people. The cost of keeping one prisoner per day is 51 hryvnias and 63 kopecks.

In 2019, 6 prisoners died in the medical unit of the institution and the institutions of the Ministry of Health, in 2020 — 2 and in 2021 — 5 people.

Since the beginning of 2021, 130 prisoners have been tested for SARS-CoV 2 (IgG, IgM), and 93 convicts have contracted SARS — CoV2 (IgG, IgM); 135 prisoners were vaccinated.

Eleven prisoners are being treated at the medical institution of the HC of SCES. Ambulance was called 5 times in 2020, 3 times in 2021.

The entrance to the medical unit is equipped with a ramp. There is a dental office, a psychiatrist and a tuberculosis specialist. The medical unit needs a car to transport the prisoners.

The monitors inspected the wards, a cell for pregnant women and women with children, where there is a special window for observation, a stroller for children, equipped bathroom. The wards of the medical unit are being disinfected and in need of major repairs.

The head of the medical unit behaved rudely and aggressively, speaking in high tones. To the question “Is it allowed to have a bucket in the ward of the medical unit?” he replied irritably that the bucket was not allowed, only polyethylene bottles were allowed, with which, according to the head of the medical unit, it was possible to wash up. “You’d better ask about medical funding,” he said.

Indeed, it is obvious to the naked eye that the medical unit needs financial support, and the premises need major repairs.

The monitors noticed the woman shouting loudly and begging to come in to her. We entered a cell that was difficult to call a ward, although it was a ward for the mentally ill.

The head of the medical unit explained why a person was placed in this cell indefinitely without a decision of the competent authority: “Excitement after methadone, after taking opiates”. The woman was held in inhumane conditions.

We handed over the materials to the prosecutor’s office. The prosecutor’s response was not delayed.

The Kirovohrad Regional Prosecutor’s Office issued an instruction to eliminate violations of the legislation of Ukraine, departmental regulations of the Ministry of Justice of Ukraine, reasons and conditions that contribute to them, namely: “The regional prosecutor’s office conducted an inspection, during which a number of violations of the law were identified, which need to be immediately eliminated and prevented in the future”.

The prosecutor’s response states, among other things, the following: “The right to human dignity is a right that protects the dignity of

any person, ensures proper treatment by public authorities and others. This is one of the types of human rights, it belongs to the fundamental rights, because it is necessary for the normal existence and development of man, is a universal and is a personal (or public) right”.

“An inspection conducted in the city medical unit No. 14 of the branch of the State Institution “Health Centre of the State Criminal Executive Service of Ukraine in Kirovohrad region” found that the defendant L. with a diagnosis of residual psychosis due to opioid use is held in cell No. 203 in the medical unit. The specified person stays in the cell for more than 15 days, which does not meet the basic requirements of sanitation, regulatory requirements of the Ministry of Justice of Ukraine.

There is fungus, mould and dust on the walls of the cell. There are cracks on the ceiling, the blackened cobwebs in the corners, part of the window block is missing, the other part of the window block has broken glass-reinforced sections, through which air from the street passes freely into the cell. As a result, the temperature in the cell is similar to the outside air temperature.

In addition, pieces of this glass are lying on the floor and on the bed, which allows the prisoner to harm herself or even inflict bodily harm on medical staff or remand centre staff.

Also, a metal pin about 20 cm long and about 2 cm in diameter protrudes from the floor near the bed, which can also be used to commit injuries or even suicide, given L.’s mental state.

The cell is equipped with only one metal bed, on which there are torn remnants of bed linen and mattress, any other items provided by the regulations of the SCES are absent.

In this cell there is no heating at all (the heating radiator is cut out), there is no washbasin, water to the toilet bowl is supplied only from the corridor by the employee on duty.

The prisoner has no shoes and is constantly barefoot on the cement floor, which can lead to a number of new diseases.

Thus L. is in inhumane conditions, which degrades her honour and dignity.

I draw your attention to the fact that the inaction of medical staff can be equated to torture and is a basis for prosecuting them, as well as for the prisoner to appeal to the European Court of Human Rights with a reasonable claim to Ukraine for damages to health. If such a claim is

upheld and the state pays compensation to the prisoner, these funds in recourse may be collected from the perpetrators..

Given the above, guided by the requirements of Art. 22 of the Law of Ukraine “On Pre-trial Detention”, Art. 26 of the Law of Ukraine “On the Prosecutor’s Office”,

I demand:

1. Immediately provide detainee L. with conditions of detention and treatment in the city medical unit No. 14 of the branch of the State Institution “Health Centre of the State Criminal Executive Service of Ukraine” in Cherkasy and Kirovohrad region, in accordance with the requirements of regulations of the Ministry of Justice and legislation of Ukraine.

2. Conduct an official investigation into these facts, identify the perpetrators and resolve the issue of their disciplinary liability.

3. Inform the regional prosecutor’s office about the results of consideration of the instruction and the measures taken to respond within 30 days by providing copies of the conclusion of the official investigation and the order to bring the perpetrators to justice.

Deputy Head of Kirovohrad region prosecutor’s office O. Malenko”.

Prisoner L. who was held in the cell was complaining about non-provision of medical assistance.

<https://khp.org/1608809688>

## VINNYTSIA PENITENTIARY INSTITUTION NO. 1

The visit took place on 2 October 2021.

Visits to this institution are carried out at regular intervals. It will be recalled that this institution has the largest number of people sentenced to life imprisonment. This time the sector of maximum security for life imprisonment, medical unit, residential cells of the pre-trial detention centre and transit cells were visited.

The number of full-time employees is 329 (including 40 freelancers) and the actual number is 279 (including 37 freelancers).

There are 3 psychologists in the social education and psychological work department and 1 in the personnel department.

The total number of prisoners in the institution is 1,054 in 2020 and 1,063 in 2021.

The cost of maintaining one prisoner is 44 hryvnias and 29 kopecks per day, and the cost of communal and household maintenance is 28 hryvnias and 17 kopecks.

Deceased during the year in the medical unit and in the institutions of the Ministry of Health: in 2019 — 3 people, in 2020 — 8 people and in 2021 — 7 people. 18 prisoners were treated at the SCES medical facility (on the territory of the institution).

There are 29 people registered with HIV, 12 with AIDS, and 6 with ART therapy. 73 ambulance calls were made this year. In 2020, 39 cases of prisoners' injuries were recorded — 30 on arrival and 9 during stay in the institution, in 2021 a total of 121 cases — 101 on arrival and 20 during stay in the institution.

Since the beginning of the year, 639 prisoners have been tested for SARS-CoV (IgG IgN), 6 people have fallen ill, and 205 prisoners have been vaccinated.

The premises of the medical unit need major repairs. The unit is understaffed, and doctors from civilian hospitals are being called in for vaccinations. Nalaxone (a drug administered during opioid overdose) was not available.

<https://khpg.org/1608809708>

#### **DNIPRO PENITENTIARY INSTITUTION NO. 4**

The visit took place on 11 November 2021.

This institution consists of a pre-trial detention centre, a household unit for convicts sentenced to a term of imprisonment, a maximum security sector for life imprisonments and transit sectors for convicts. There is also an inter-regional multidisciplinary hospital No. 4 on the territory of the institution, but the conditions and quality of medical care there are so terrible that it deserves a separate article (see “Cancer tumour of an already sick prison medicine”). In all sectors, convicts complained of an absolute lack of medical care.

There were 1,528 convicts and prisoners in the facility at the time of the visit. The planned capacity of the institution is 2,196 people. The number of the administration is 385, although according to the staff list there should be 428.

<https://khpg.org/1608809742>

#### **DNIPRO CORRECTIONAL COLONY NO. 89**

The visit took place on 11 November 2021.

It is a medium security facility for men who have previously served their sentences. The colony has a maximum security sector and a specialized tuberculosis hospital. The colony was founded in 1945 as a POW camp after World War II. Today 384 convicts are serving their sentences in the colony. The planned capacity of the institution is 993 people.

On the day of the visit, 86 convicts were in the specialized tuberculosis hospital. The institution treats multidrug-resistant tuberculosis. The hospital has a medical advisory commission, which decides whether a convict is subject to release on health grounds. In the last year, 8 convicts were found to be entitled to release.

The hospital has a dental office. Convicts have the opportunity to go to the dentist for treatment and removal of teeth. 3,013 medical manipulations have been performed since the beginning of the year.

The facility is also equipped with modern Italian X-ray equipment and ultrasound diagnostics. The laboratory of the institution has the opportunity to conduct both general clinical tests and tests for tuberculosis, viral load of HIV and hepatitis. Tests for the number of CD-4 cells are performed in the regional laboratory of the HIV/AIDS Centre. The laboratory has modern equipment.

The monitors visited the residential wards of the tuberculosis hospital. It is a barracks-type unit. The dormitories have bunk beds and plenty of free space. At the same time on one side the beds are close to each other, and on the other — at a distance from each other. There are no personal identification cards of the convicts on the beds. According to monitors, the bedrooms need repair. The kitchen of the unit is in poor condition. There is no drinking water tank in the kitchen.

There is no light in the toilet. The walls in the bathrooms are in a terrible state. The paint peels off and there is fungus. Of the four toilets, one is used because the others are broken. There is only one full-fledged washbasin. Other places for washbasin taps are welded.

<https://khpg.org/1608809751>

**SYNELNIKIVSKA CORRECTIONAL COLONY NO. 94**

The visit took place on 12 November 2021.

It is a medium security facility for repeatedly convicted men. The colony was built on the site of a former mining settlement. The planned capacity of the institution is 1,295 people. 723 convicts were serving their sentences in the institution on the day of the visit. The institution actually has 235 employees, although the staff list provides for 259.5 positions.

The medical unit is almost completely staffed by doctors. Only the position of radiologist is vacant. According to the head of the medical unit, the institution is fully provided with medicines. Moreover, the institution does not generally accept transfers of medicines from relatives.

Therefore, the institution does not keep the relevant medical documentation, which must be in each institution of the Health Centre of the SCES of Ukraine in accordance with the joint order of the Ministry of Justice and the Ministry of Health of Ukraine No. 1348.

Since the beginning of the year, three convicts have died in the institution. There were 30 cases of bodily injuries, most of which were cases of self-harm. 467 convicts, almost 65 percent, have various forms of hepatitis. 155 convicts have HIV. Since the beginning of the year, 4 cases of hospitalization of convicts in the hospitals of the Ministry of Health have been recorded. Since the beginning of the pandemic, nine convicts have contracted the coronavirus. The administration said 50 percent of those convicted had been vaccinated against coronavirus. Since the beginning of the year, 17 convicts have contracted tuberculosis.

Cosmetic repairs were performed in the inpatient wards of the medical unit. Metal-plastic windows were installed. Wards are designed for 5–6 people. The bathroom is located in a separate room. Toilets are fenced off with walls, but they do not have doors.

In the medical unit the manipulation room is equipped with metal cages, which are not provided by current criminal-executive legislation.

*<https://khp.org/1608809757>*

**CHERNIHIV PRE-TRIAL DETENTION CENTRE**

The visit took place on 2 December 2021.

This institution consists of a pre-trial detention centre, a unit for convicts who are imprisoned for a certain period of time and left in a pre-trial detention centre as service personnel, the transit sector and the medical unit.

At the time of the visit, there were 348 prisoners, 18 persons of the household block and 8 people sentenced to life imprisonment. The planned capacity of the institution is 375 people. The staff is 165 employees. The institution has been operating since 1705. It is located in the central part of Chernihiv.

Over the last two years, diagnostic equipment has been purchased for the medical unit, thanks to which it is possible to quickly diagnose various diseases of people in the pre-trial detention centre. In particular, there is an ultrasound machine, X-ray machine, laboratory equipment for testing.

The monitors were shocked by the information about the salary of the junior staff of the medical unit, which is about 4,500 hryvnias. Almost every day, these employees are at risk of contracting COVID-19 and tuberculosis, but continue to save the lives of prisoners despite the lack of any salary supplements.

The staff list of the medical unit of the institution provides for 22 positions. On the day of the monitor visit, only 0.5 disinfectant rates and 0.5 therapist rates were vacant. According to medical staff, the facility is provided with essential medicines. If necessary, sick prisoners can be taken to the institutions of the Ministry of Health.

So far this year, the institution has registered 31 cases of bodily injuries to convicts and detainees.

The medical unit has a modern dental office and updated diagnostic equipment.

*<https://khp.org/1608809851>*

**ROMENSKA CORRECTIONAL COLONY NO. 56**

The visit took place on 3 December 2021.

It is a medium security facility for men re-sentenced to imprisonment. The institution also has a maximum security sector for convicts

sentenced for life, which has a department with general conditions of detention for lifers who, after fifteen years of imprisonment, have proved that they are on the path to correction.

The planned capacity of the institution is 528 convicts. On the day of the visit, there were 525 people sentenced to imprisonment in the penal colony. The institution had 247 employees, while the number of staff was 275.5.

Over the past year, only one convict has been released from prison due to a serious illness.

On the day of the visit, there were no patients with coronavirus disease at the institution. Everyone was vaccinated, and awareness-raising was carried out with those who refused.

A new X-ray machine has been installed in the medical part of the institution. There is a dental chair in the dentist's office.

During the current year, 16 cases of bodily injuries and 5 cases of use of special means were recorded in the institution. The ambulance was called to the institution 13 times.

*<https://khpg.org/1608809854>*

# PRINCIPLES OF REFORMING THE PENITENTIARY HEALTHCARE

## MAIN BASES OF THE CONCEPT OF REFORM OF THE PENITENTIARY SYSTEM <sup>1</sup>

**1. The aim of the punishments and the criminal executive activity** is the exclusion of punitive and repressive elements from the purpose of execution of punishments. Formation of a new penitentiary system in the spirit of social service that works with vulnerable groups of the population.

The expected effect — humanization and de-romanticization of attitude towards a criminal and a convict, the transfer of focus to the vulnerability of those people, the need for support and “inclusion” of such people to the socially positive programs.

The basis of activity is the probation, which is not a form of punishment, but is an intensive, sometimes coercive measure of social influence, based on the interaction of the convict with society.

Imprisonment is an exceptional type of influence that can be imposed only for serious and especially serious crimes and provided that the probation service receives substantiated conclusions about the risks of such a person being released, his or her real social danger and the possibility of re-offending.

To link to the system of offences that is currently in place and consists of criminal wrongdoings/offences and criminal offences. Thus, the system will focus on the fact that only criminal offences (not all) can be punished by imprisonment.

An important point in the application of restrictive measures should be the choice of a measure of restraint in the form of detention. This measure should become “as difficult as possible” in the general order and require a separate justification and the real need to choose such a measure.

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<sup>1</sup> Author is Mykhailo Romanov.

**2. The new system of bodies:** to create a system of penitentiary bodies within the structure of the Ministry of Justice with division into two departments — the department of the probation service and the department of execution of punishments related to physical isolation. Return the regional division of territorial offices without increasing the number and composition of staff. The departments will also house two subdivisions (departments) — probation and execution of sentences related to physical isolation.

The probation service is not a penitentiary body.

**3. Institutions:** certification and preservation of institutions according to the criteria of their suitability for holding people, modernity, accessibility and universality in terms of possible movement of convicts (developed infrastructure, access to the institution, availability of transport, telephone, Internet, reality of legal and medical care, possibility to be visited by the representatives of state bodies, notaries, etc.).

Sale/lease/overhaul/reconstruction of old buildings and construction of new ones.

The main thesis is the understanding and awareness of the state that the criminal executive activity is undoubtedly a subsidized area of activity and its value and effects cannot be made dependent on the possibility of making a profit and self-sufficiency. The ability of society to correct and accept those who have committed crimes, testifies to the ability of society to provide itself not only materially but also with “resources” (to restore and accept those who cannot or do not want to accept the rules of coexistence in society, legal relations and programs).

**4. Staff:** a significant reduction of staff, based on the proportion of one employee for three convicts. The reduction and optimization of administrative processes and officials. Salary increases due to savings while reducing the number of staff. The training of system employees exclusively in professional (legal, pedagogical, social) non-specialized universities (without militarization of the system). (Why the universities? Because they are able to “ennoble” the learner, and therefore increase the chance and likelihood of treating another person with respect and attention). The general increase of prestige of work in the system (social advertising, social protection and status).

**5. Legislation:** bringing domestic regulations in conformity with international standards and harmonization of national regulations with each other. Give the rules of the Convention on the Pre-

vention of Torture and on Human Rights the force of law. Consider the direct use of the Istanbul Protocol in cases of documenting the facts of torture.

Review the system of penalties and exclude those that do not work or are ineffective. Improve existing ones (in particular, make restriction of liberty unrelated to physical isolation, optimize arrest by identifying real regime differences between the serving of this sentence and the deprivation of liberty, etc.).

Create a system of regulations: the general law on the system (service), the code that regulates the execution of all types of punishment. It is quite expedient to formulate probation in a separate normative act. The law regulating the procedure and conditions of detention, the law on double penitentiary inspections, the law on penitentiary judges (or courts), by-laws concerning the implementation of certain institutions and sub-institutions of executive legal relations.

Reduce the “costly” factors — life imprisonment as a form of punishment, which in the near future, among other things, will require significant resources to serve people who will grow old in the penitentiaries (despite its legal inconsistencies).

Reduce corruption factors: make the institution of parole the one that is “triggered” automatically, and transfer direct consideration of this issue to the court, where the court itself determines the subject and amount of information to be provided by the penitentiary administration, the convict and his/her representative. Similarly with release for illness.

Improve the institution of pardon, enshrining the main provisions of the relevant law, reducing the discretion of this institution. Despite the fact that pardon is an “act of good will”, in modern conditions it should have the characteristics of reality, not a “whim”.

If life imprisonment is maintained, provide for the possibility of releasing such convicts after a certain period of time and assessment of the risks of re-offending. These procedures must be “automatic” and only the presence of any special conditions on the part of the convict (constant unlawful behaviour, audacity and disregard for norms, rules and legal requirements) can be grounds for postponing the possibility of release for a specified period.

Exclude Articles 391, 392 from the Criminal Code as a means of manipulating convicts and corruption-causing factors, as well as other

articles that increase corruption risks in the activities of penitentiary institutions.

Remove the administration of the institution from deciding on the possibility of transferring a convict from one institution to another, giving these powers to the supervisory commissions/probation service, the decision of which is agreed in technical matters with the central authorities of the penitentiary system.

Set the priority of dynamic security over static. Develop mechanisms for implementing dynamic security of convicts (measures and entities, the procedure for interaction with the administrations of institutions. Discuss the feasibility of involving the administration of institutions in this activity. A possible format: the administration only ensures the detention of the convict in the institution, while the work with convicts is performed by probation, civil, volunteer, religious organizations, as well as enterprises and individuals who are interested in it).

**6. The rights of the convicts:** Formulate effective mechanisms to protect the rights of convicts — the right to legal aid without any restrictions (even without security restrictions), the right to appeal against decisions and actions of the administration (establish mandatory inspections by penitentiary inspections at both levels of complaints and a ban on transfer of complaining convicts, until the is completed and the decision on it is made), the right of the convict to participate in court hearings in any of his or her cases (criminal, civil, administrative).

The right to medical care — ensures its indisputability and priority. Separate (work in the institution, but subordinated to the medical administration) medical staff from the “prison” staff, provide mandatory medical treatment, including in-patient treatment in ordinary medical institutions, for the persons in need of treatment (in accordance with international standards and criteria for medical care).

The right to work is a right that is exercised in compliance with the requirements of labour legislation, including the regime of work and rest (vacation) and the opportunity to resign at will. Establishing positive labour relations with enterprises in order to involve convicts in work (industry, agriculture, creative professions, services). Make the work interesting and profitable for them, so that convicts would want to work because it is more interesting than sitting in cells or barracks.

The convict’s right to security — the minimum level of security is provided free of charge. The general appropriate conditions — temperature, lighting, ventilation, hygiene, bedding, exercise, etc. The convict has the right to increase the level of security at his own expense — a different room, other (but uniform) clothes, the opportunity to have a haircut and beard, subject to hygiene, etc.. The number of short-term visits in most institutions is unrestricted, long-term — to be regulated. Spending money without restrictions, reading, learning without restrictions. Prohibition for the administration to automatically withdraw funds from the accounts of convicts. Any cases of bringing to “financial” responsibility — through the court (it is appropriate to talk about the creation of separate penitentiary courts or judges). And even in case of a decision on the application of “financial” responsibility, limit the possibility of withdrawing, for example, not more than 40%.

Statements, complaints, appeals of convicts: obligatory registration of incoming and outgoing correspondence, providing the convict with a copy of the relevant document with registration data, notification of the convict on consideration of all applications, complaints and appeals. Carrying out obligatory checks on the applications and complaints of convicts with a simultaneous ban on the movement of complaining convicts before the complaint is examined and a decision is made on it. Abolition of censorship and revision of convicts’ documents. The possibility of reviewing the documentation may be established by a court decision in cases where there are reasonable risks of the convict preparing to flee or commit other offence.

The transfer of convicts: possible in exceptional cases, primarily related to the security of the convict. It is decided by the supervisory commissions/probation bodies in coordination with the central department for the execution of sentences related to isolation from society, taking into account the possibility of maintaining social ties, contacts and access to fundamental rights and opportunities. The convict’s conduct may be grounds for transfer only if the institution is unable to separate the convict from the source of the conflict.

**7. Control and supervision over the system:** adopt a law on the system of double penitentiary inspections, which will lay the foundations for the inspection of institutions in the departmental and external mode, the latter being performed by the NPM with the possibility of adopting acts of response, which should be binding.

Ensure civil and international control — by civil and human rights organizations and international organizations. Free access to institutions for members of these organizations, liability for non-admission. Access of other members of the public with the issuance of appropriate permits and accompanied.

One form of control is supervisory commissions, which must be formed exclusively of members of the public who are in no way affiliated with law enforcement. To empower the supervisory commissions to resolve issues related to the transfer of convicts and their release, as well as to conduct inspections of probation bodies and penitentiary institutions in the civil control mode.

Open and systematic informing of the public about the state of affairs in the penitentiary system by posting reports on the web pages of the penitentiary service, constant contact with the media, holding mass events involving members of the public, including within institutions, providing opportunities to visit institutions, inviting members of the public to participate in rehabilitation programs with convicts, to volunteer activities, etc.

## REFORM STRATEGY OF MEDICAL CARE FOR PRISONERS<sup>1</sup>

### INTRODUCTION

The state of medical care for convicts (especially those serving sentences of physical isolation from society) is extremely poor today. The incidence of dangerous diseases among convicts, including infectious ones, can pose a danger not only to other convicts, but also to free people, because convicts communicate with staff, visitors, and they are released and through them the diseases can spread among the free population. An example is the evidence of studies showing that the incidence of tuberculosis among detainees/convicts is 22 times higher than among the general population.<sup>2</sup>

All this indicates that medicine in the State Penitentiary Service needs systemic and comprehensive changes, the ultimate goal of which should be to create an appropriate and functional system of medical care for convicts sentenced to physical isolation from society, and detained persons. This system should be focused on providing medical care and support to sick people.

Today, the reform of penitentiary healthcare is one of the “trends” of the industry. This problem is in the field of view of both national authorities and international institutions. The Penitentiary Reform Passport, which appeared on the side-lines of the Ministry of Justice in 2017, provided for active changes in this area of activity. Its existence was mentioned by the Kharkiv Human Rights Protection Group in a report by Iryna Skachko<sup>3</sup>. In addition, in 2017 the Concept of reforming (develop-

<sup>1</sup> Authors are Mykhailo Romanov, Yevgeniy Zakharov.

<sup>2</sup> Report on the results of the study “Barriers to the diagnosis and treatment of tuberculosis in pre-trial detention centres, penitentiary institutions and specialized tuberculosis hospitals of HC of SCES of Ukraine”. — URL:

[https://phc.org.ua/sites/default/files/users/user90/ZvitTB\\_Full.pdf](https://phc.org.ua/sites/default/files/users/user90/ZvitTB_Full.pdf)

<sup>3</sup> Iryna Skachko Five Years of Penitentiary healthcare Reform: A Sad Anniversary. URL: <https://khpg.org/1608809797>

ment) of the penitentiary system of Ukraine (hereinafter – the Concept) was adopted. The Concept identified the situation with the provision of medical care to convicts and prisoners as one of the systemic problems.

From that moment on, both the Ministry of Justice returned to the issue of reform from time to time (speeches of the heads of the Ministry of Justice on social networks and mass media (interviews, comments, etc.<sup>4</sup>), and the Human Rights Commissioner of Verkhovna Rada of Ukraine (monitoring visits, appeals and submissions, etc.). Human rights organizations also paid considerable attention to the problem of medical care for convicts. In particular, the Kharkiv Human Rights Protection Group pays attention to the medical care of convicts and detainees in almost every report on the results of monitoring visits to penitentiary institutions<sup>5</sup>. But unfortunately, no significant changes in the direction of the declared transformations during these four years have taken place.

In our opinion, the main reason that the reform did not actually take place is, firstly, the lack of understanding of the ultimate goal of medical reform. The formulation of the goal with the help of the thesis “to make it good” indicates its uncertainty. The lack of the ultimate goal of the reform will not allow to choose the methods, means and mechanisms of the reform. And the second reason is the lack of political will to implement real transformations.

And while the issue with the second reason remains open, the first can be completely solved by formulating such a goal.

Of course, in order to successfully implement the reform of penitentiary healthcare, it is necessary to take into account that the medical sector itself is in a state of reform. Therefore, there is a need to integrate one reform into another. In this process, it is important to be aware of the peculiarities that exist in the field of execution of sentences and which are associated with the existence of significant restrictions imposed on convicts and prisoners.

## THE MAIN PROBLEMS OF PENITENTIARY HEALTHCARE

Let’s identify the main problems to determine the range of issues that need to be addressed:

<sup>4</sup> <https://antidot.info/person/?authorities=penitentsiarna-sluzhba>

<sup>5</sup> Criminal executive system. URL: <https://khpg.org/802>

1. Subordination of medical staff to the administrations of penitentiary institutions, and penitentiary healthcare – to the purpose of punishment. The problem is that today there is a deep tradition, the content of which is the provision that a convict is, first of all, a punished person who does not “deserve” a normal human attitude. Accordingly, if the convict is ill, this circumstance is perceived as part of the punishment, i.e. part of the suffering that the convict must experience. Thus, the medical staff is in no hurry to provide medical care, given that the convict must be punished, and care for his physical condition is an optional element of the process of serving the sentence.

2. Inadequacy of the infrastructure of penitentiary institutions and pre-trial detention centres for the provision of medical care and treatment. The problem follows from the previous one: by not perceiving the convict as a person, the state does not take care to create humane conditions for the detention and provision of convicts. That is why penitentiaries are adapted to provide suffering, but do not have the appropriate infrastructure to care for a person. Especially one that needs medical attention. There are no proper premises, equipment or conditions for medical care.

3. Insufficient number and even lack of medical staff. Nowadays, the State Criminal Executive Service is experiencing a significant shortage of officers to enforce criminal penalties, including the need for medical personnel. Especially for qualified medical workers who are able to diagnose the patients, prescribe and monitor the treatment of patients, as well as make operational competent decisions during the course of the disease. The staffing of penitentiary institutions with such employees is a significant problem.

4. Insufficient provision of medical units with medicines and equipment for diagnosis and treatment of convicts and prisoners. Underfunding of SCES in general and HC of SCES and medical units of institutions in particular creates a state of chronic inability to provide medical services within the system. Lack of medication, lack of necessary equipment, inability to provide timely and complete medical care lead to the fact that even the efforts of medical staff become illusory due to their ineffectiveness.

5. Inconsistency of actions between the structural subdivisions of the SCES and between the HC of SCES and the Ministry of Health of Ukraine in providing medical care and treatment of convicts. The lack of

clearly defined functional priorities in the implementation of criminal penalties (for example, the lack of a clear indication that human safety, life and health are the main criteria for the effectiveness of SCES) leads to the fact that even within SCES there are no consistent and clear algorithms of interaction, especially in the field of medical care. Numerous decisions of the European Court of Human Rights indicate that very often medical care is provided too late, not in full, with long breaks, and so on. All this indicates that the structural units of SCES are not able to make operational managerial and executive decisions and interact with each other.

6. Failure to comply with medical treatment protocols during the provision of medical care to convicts, failure to provide continuous and uninterrupted treatment of convicts, lack of efficiency and timeliness of medical care. This problem is cumulative, as it is related to all the previous ones, which together lead to the negative consequences that develop in practice in the provision of medical care: lack of interaction between medical staff of SCES and MoH specialists, understaffing and lack of necessary equipment, priority of implementation of punitive (executive) function ultimately lead to non-compliance with medical protocols for treatment of convicts and detainees, incompleteness, interruption and untimely assistance. This circumstance is not only a violation of medical regulations, but also an ethical and legal problem, as it is related to the state's failure to protect human rights, failure to ensure the security of society. This situation makes it normal to leave a person in danger and endanger the health of both the convict or detainee and the people around him.

7. Mutual mistrust between the convicts/detainees and the staff of SCES. In the context of medical care for convicts and detainees, the problem is that the administration of the institutions has a negative attitude towards those convicts who complain about their health, perceiving them as simulants: those who evade the regime, those who want to be released early, or to receive some mitigation in detention or to go to hospitals. For their part, convicts distrust staff and doctors, trying to maintain a balance between maintaining health and reducing their own vulnerability as a patient and one in need of additional care.

8. Lack of special regulations and understanding of the need for individual approaches to convicts with special needs, in particular to those who need constant medical care, treatment, special therapeutic

measures (patients with diabetes and other chronic diseases that require constant medical care or treatment, HIV-infected, drug and alcohol addicts, people with disabilities, etc.), as well as the elderly persons in need of care.

In summary, the problems identified are due to several factors:

General lack of humanism in the penitentiary system (ability to treat a convict as a person).

Inability to distinguish between execution of punishments and health activities. We mean that in penitentiary institutions all measures (including treatment) are subordinated to the purpose of punishment (a convict is the one who has to suffer).

Lack of traditions of penitentiary healthcare. This means that prison medicine did not exist as a field of activity and, accordingly, there is no awareness of its necessity, no understanding of the specifics of medicine for people in physical isolation and which are supposed to be resocialized through such isolation, nor an understanding of causal links between individual social phenomena and, as a consequence, the inability to understand the problems arising from existing problems within the penitentiary system (the state of health care in places of detention and the state of public health).

Lack of adequate funding and provision of penitentiary healthcare. Reform of the penitentiary system has been ongoing since 1998. Given this period, today referring to the "for lack of funds" is in the nature of improper performance of the duties of the relevant officials (not only and not so much of the State Criminal Executive Service), rather than the actual shortage of funds. This is particularly relevant given the amount of compensation that Ukraine pays under ECtHR decisions in the "medical" cases of prisoners each year.

We would like to note that penitentiary healthcare must address these issues. To do this, it must be independent, accessible, prompt, effective and mobile.

## MEASURES TO IMPROVE THE SITUATION

Measures that, in our opinion, should be implemented in the penitentiary sphere:

1. To solve the problem of subordination of medical personnel to the administrations of penitentiary institutions, and penitentiary

healthcare – to the purpose of punishment, it is necessary to put an end to the issue of transferring the entire medical service of the SCES to the Ministry of Health of Ukraine. We believe that in this process it is necessary to realize that the issues of administration should not be replaced by issues of managing the property of medical institutions of SCES. First of all, the process of transferring all medical staff of the SCES to the Ministry of Health of Ukraine should take place. This applies to the registration of labour relations of medical staff, as well as its provision, financing, social security, certification, etc. As for the property now owned by the HS of SCES, its fate should be decided by the SCS, but with due regard to the fact that medical staff, in addition to financial and social security, must have the material and technical base necessary to provide medical services. Therefore, it is expedient to transfer the relevant property (or part of it), which will provide a real opportunity to provide medical services to convicts, to the MoH of Ukraine.

We believe that the employees of the State Institution “HC of SCES” should be dismissed and employed in medical institutions of the MoH or (if desired) to practice medicine as individual entrepreneurs. Such persons need to set appropriate surcharges and allowances for their work. As for the property now owned by the HC of SCES, we consider it expedient to transfer the entire medical infrastructure to the MoH, re-equip it and prepare it for the treatment of convicts and prisoners.

The second important point is that the perception of the convict as a stigmatized punished person actually leads to the perception of the convict’s illness as part of the suffering, which, in turn, is the norm for the convict. Therefore, such treatment of the convict must be eradicated. And it is cooperation with civilian doctors that increases the chances of overcoming such a stereotype about convicts. We believe that cooperation with civilian doctors increases the chances of overcoming such a stereotype about convicts.

2. Inadequacy of the infrastructure of penitentiary institutions and pre-trial detention centres for the provision of medical care and treatment. The problem is solved by updating the material and technical base of places where convicts and detainees receive medical care. In addition, it is necessary to re-equip penitentiary institutions and their individual premises and the medical units themselves in order to create the necessary conditions for the provision of medical care.

We are talking about the allocation of premises for the isolation of patients with infectious diseases, the proper arrangement of the premises of medical units, diagnostic rooms, wards for temporary or permanent accommodation of patients in need of inpatient care. Solving this problem requires adequate funding and changes to the architecture and formation of the internal space of penitentiary institutions. We believe that postponing the resolution of this issue to “better times” is unacceptable. If the state finds funds for compensation payments according to the decisions of the ECtHR, it is able to find funds for the reform of penitentiary healthcare.

3. Insufficiency and even lack of medical staff. Problems need to be solved comprehensively in cooperation with the MoH of Ukraine. Of course, working with convicts and detainees is intense and has increased levels of stress and danger. Therefore, health care workers who work in such conditions should receive appropriate compensation and benefits that are associated with overload. It is necessary to introduce a system of allowances and surcharges for work in penitentiary institutions, as well as to provide for mandatory rotation of medical workers and opportunities for their rehabilitation. Such working conditions will make it possible to attract more qualified medical workers to penitentiary institutions and replenish their staff. Additional financial support for medical employees working in penitentiary institutions solves an additional task – prevention of corruption and reduction of corruption risks in working with convicts.

4. Insufficient provision of medical units with medicines and equipment for diagnosis and treatment of convicts and detainees. This problem is solved by comprehensive long-term planning and forecasting of activity of medical institutions, as well as by providing them with the necessary minimum of medicines and equipment that will allow at least the initial examination and diagnosis of most diseases, as well as to perform basic, including urgent, manipulations and research. The solution to this problem can be achieved through constant adequate funding of penitentiary institutions and, in particular, their medical units and institutions.

5. Inconsistency of actions between the structural subdivisions of the SCES and between the HC of SCES and the MoH of Ukraine in providing medical care and treatment of convicts. Due to the desired liquidation of the State Institution “HC of SCES” there will be a need

for regulation and joint development of the SCES and the Ministry of Health, the order and algorithms of interaction in certain circumstances and in connection with the diagnosis of relevant diseases. Settlement and elimination of such condition is possible by means of normative regulation and joint work by the specified structures, in developing the order and algorithms of interaction in certain circumstances and in connection with diagnosis of the corresponding diseases. It is necessary to determine the main course of action in certain situations, which would allow to promptly and quickly respond to the painful conditions of convicts and detainees in order to prevent untimely and incomplete medical care, as well as to effectively interact with other medical professionals.

6. Failure to comply with medical treatment protocols during the provision of medical care and treatment of convicts, failure to provide continuous and uninterrupted treatment of convicts, efficiency and timeliness of medical care. It is planned to solve this problem through general rules and requirements for the provision of medical care and the introduction of insurance against poor quality medical services, which is currently being discussed at the national level. This should be supplemented by the formulation of a doctrinal provision in the criminal-executive legislation on the priority of protection of life and health of the convicts in comparison with the achievement of the purpose of punishment. The solution of this problem requires the consolidation of the imperative requirement of mandatory compliance with medical protocols during the treatment of convicts, including compliance with deadlines for examination of convicts, the obligation to provide them with assistance and other mandatory algorithms. This should be complemented by the formulation of a doctrinal provision on the priority of the life and health of the convict over the achievement of the purpose of punishment. This means that the provision of medical care and treatment to sick convicts and detainees must be unquestionable. The rule on optimal continuity of medical care, in particular, ensuring such continuity during the staging of convicts, their transfer from institution to institution, etc., requires imperative consolidation. Compliance with the requirements for consistency, timeliness and intensity of treatment should be the main norm in matters of medical services for convicts and detainees. Normative legal acts regulating the procedure and peculiarities of providing medical care to convicts and detainees in procedural

issues should be deprived of excessive discretion, which is inherent in many by-laws in the field of execution of criminal punishments.

7. Mutual mistrust between convicts/prisoners and SCES staff. Overcoming this mistrust, unfortunately, cannot be achieved in a short time. Only the creation of a positive climate in penitentiaries, humane treatment of convicts, giving them the opportunity to communicate in confidence with psychologists, medical workers, religious workers, guaranteeing the existence and preservation of medical secrets, secrecy of confession, etc., can gradually remove the obvious general confrontation. setting up a proper atmosphere inside penitentiaries. Introduction of an independent and efficient medical service increases the chances of changing the general settings of the entire penitentiary system.

8. Lack of special regulations and understanding of the need for separate approaches to convicts with special needs. The problem is solved by adopting relevant regulations and regulating the mechanisms for implementing them. In addition, in order to work with such convicts, it is necessary to solve the above-mentioned problems, as the qualified staff, provision and support of such convicts are needed, ensuring their uninterrupted treatment (therapy) and care.

### HOW TO INTEGRATE PENITENTIARY HEALTHCARE INTO CIVILIAN MEDICINE?

One suggestion to reform penitentiary healthcare is to “integrate” detainees into the existing e-health system with its family physicians and other appealing programs. This algorithm involves the liquidation of the State Institution “HC of SCES” and the complete transfer of its functions to the relevant institutions of the MoH. This is the most “painless” way that does not require excessive effort, **but also does not solve the problems that exist in the field of medical services for convicts and detainees.**

Therefore, when determining the ways of reform, it is necessary to constantly keep in mind the problems that, in fact, caused the need to transform the medical sphere in places of detention.

Regarding the reform by transferring the functions of providing medical care to the Ministry of Health and “adding” detainees in the places of detention to the general e-health system, we believe that the

“family” doctor in a penitentiary institution is a non-working myth. And that’s why:

- The e-health system assumes that every client has the technical capability, time and *free will* in order to make an appointment with a doctor and wait in a significant queue, get a brief consultation and be included into the various electronic forms that doctors fill out. Unfortunately, persons held in places of detention do not have any of the above features and capabilities. Thus, at this stage, the chance of their communication with the doctor will depend entirely on the administration of the penitentiary institution and the availability of free time of the “family” doctor, who, in addition to convicts and detainees, must also receive other patients. The situation is complicated by a purely technical issue — personal contact with a doctor. The creation of an effective mechanism of a “meeting” between those persons remains questionable;
- The e-health system assumes that after the initial admission, each client has the technical ability, time and *free will* to continue to follow the doctor’s recommendations. If a convict or detainee finds himself in need of secondary medical care, he will have to find an opportunity to go to a specialized hospital (go there and possibly stay to receive inpatient care. And in general be able to move quite quickly). Persons held in places of detention do not have such opportunities. They cannot promptly follow the doctor’s recommendations, and deciding whether to transport them to a specialized hospital and leave them there for care in general is a complex process with a large number of unknown factors. It is impossible to guarantee such opportunities, given the significant physical distance between the convict and the doctor. Therefore, such an algorithm does not solve the problem of access to the doctor.
- The e-health system assumes that every “family” doctor is interested in providing services to those persons with whom a declaration has been concluded. Here difficulties arise even at the stage of concluding declarations. Not all convicts and prisoners have them, and for those who do, it will be necessary to re-declare, as the person may change their location due to placement in a penitentiary institution. Questions arise: first,

who will coordinate the declaration process? The administration? In this case, the provision of medical care will be made dependent on the will of the administration at the stage of its documentation. Given the current medical records in the penitentiary system, it is not to be expected that the organization of declarations will be of better quality. In addition, there is a problem with the lack of documents of many persons held in places of detention. In this case, the conclusion of the declaration will be impossible. Secondly, even if one is to imagine that the declarations are concluded, the organization of the process of direct contact with the doctor is a big question. How to organize these contacts? Will the doctor visit the place of detention on schedule? This means that prisoners also need to be sick on schedule. And this means that the doctor will have to cancel the reception of other citizens with whom he also has declarations several times a week/month. Given the current state of medical care in conventional hospitals, it is difficult to imagine what the process of providing such medical care will be like after the convicts are added. Queues will increase, the number of electronic documents will increase, the need to make decisions about treatment will be more acute. The burden on the doctor will increase, and there will be no compensation for the doctor, because those are “normal” patients. Add to this the fact that several doctors will probably visit one penitentiary institution, as the principle of service is “declarative”. It is quite possible that a doctor will be in the penitentiary institution every day, but he will provide assistance only to “his” clients.

If we add to this the lack of Internet access for convicts and detainees in most institutions, as well as the fact that any use of the network is possible only with the permission of the administration and subject to payment by the prisoner, we get a lot of prerequisites to see a doctor and full control over access to the doctor by the administration.

And this is only part of the difficulties that lie on the surface. Most problems are still “invisible”.

As we can see, the existing system of medical care for free citizens is *completely unsuitable* for its implementation in places of detention, because *it does not solve the problems that exist today, but only creates new ones*.

The world practice of ensuring the right of convicts to medical care has developed the following criteria for adequate medical care:

- 1) clear delineation of competencies of medical staff and administration of institutions, prevention of influence of the administration on medical staff in matters of providing medical care to prisoners and recording of their bodily injuries;
- 2) ensuring unimpeded access of prisoners to medical staff;
- 3) strict observance of medical secrecy concerning the state of health of prisoners, in particular in relation to the administration of institutions, and on the other hand, the right of prisoners to receive reliable and complete information about the state of their health;
- 4) providing detailed documentation of the prisoner's state of health and treatment during detention;
- 5) promptness and accuracy of diagnosis and treatment;
- 6) regular and systematic supervision and availability of a plan of therapeutic measures to treat the prisoner's illnesses or prevent their complication;
- 7) creating the conditions necessary for the actual provision of the prescribed treatment;
- 8) the duty of the state to cure a seriously ill prisoner is the duty to take the means, not to achieve the result (criterion of due diligence).

When reforming penitentiary healthcare, these criteria should always be in the field of view of both SCES staff and medical staff involved in the treatment of convicts and prisoners.

Based on the above, we can formulate the goal of reforming penitentiary healthcare — to create an independent (from the Ministry of Justice and SCES), accessible, prompt, effective and mobile medical service for convicts and detainees, which can provide a full range of medical services. In our opinion, this should be a separate unit of the Ministry of Health.

## **ALGORITHM OF TRANSFER OF INFRASTRUCTURE AND ORGANIZATIONAL SUBORDINATION OF THE MEDICAL UNITS AND INSTITUTIONS OF SI “HC OF SCES” TO THE MINISTRY OF HEALTH<sup>1</sup>**

Today, the issue of the need to subordinate the penitentiary healthcare to the Ministry of Health seems to have been resolved. Both the Ministry of Justice, the SCES and the Ministry of Health are well aware of the problems and have a common position on the need to transfer this area of medical activity to the Ministry of Health.

At the same time, those departments lack unity in the issues of the mechanism of transfer and the algorithm of the subsequent work of the penitentiary healthcare.

Understanding the departmental and administrative complexity and multi-vector nature of the problem, we offer our own vision of the order and sequence of actions necessary for the organization of the transfer of penitentiary healthcare and its further operation under the leadership of the Ministry of Health of Ukraine.

We believe that the idea of creating a separate structural unit within the Ministry of Health of Ukraine, which will only be tasked with medical care for convicts and detainees, is the most expedient, efficient and capable of eliminating the existing problems in the field of medical care for persons in places of detention.

The following stages are necessary to implement such idea.

1. Decision-making stage. At this stage, mutual agreement is needed between the Ministry of Justice, the Ministry of Health and the SCES on the procedure and sequence of actions for the transfer of health care (political will and willingness to constructive compromise).

<sup>1</sup> Author is Mykhailo Romanov.

2. Coordinating the sequence of actions. In accordance with the accepted concept of concluding a memorandum (or without it) on the general conditions and procedure for the transfer of medical infrastructure from one department to another. It is advisable to create a working group that will be able to quickly and purposefully work on the development of a holistic transmission algorithm and its individual components.

3. Adoption of a concept of health care reform, which would define the existing issues and the ways to remove them, the general aim of the reform and the main constitutional idea of provision of medical services: creation of a separate structural unit within the structure of the Ministry of Health of Ukraine, which will only be tasked with medical care for convicts and detainees (the algorithm of this unit is described in paragraph 8).

4. Adoption of regulations (amendments to the CEC, Internal Schedule Rules, a separate order on the provision of medical care and a number of regulations that determine the procedure for actions related to the provision of medical services to convicts and detainees). These regulations should contain general principles of medical care, the procedure for providing primary care services (examination, diagnosis, counselling, secondary care, placement of patients in medical institutions for inpatient treatment, treatment of dangerous diseases and special conditions (tuberculosis, HIV, alcoholism, drug addiction, etc.), special cases of medical care or supervision – treatment of the disabled, pregnancy and childbirth, etc.). Mandatory provisions of the acts should include the availability of guarantees for the independence of the medical workers, as well as liability for failure to provide or untimely provision of care and poor quality of medical care. Regulations should contain links and connection to national programs of medical guarantees and available medicines, etc.

5. Dismissal of medical staff of the HC of SCES (or transfer due to the reorganization of the department) and their employment in medical institutions of the Ministry of Health (created on the basis of institutions of the HC of SCES or other institutions of the Ministry of Health).

6. Creation of the infrastructure of medical institutions serving convicts and prisoners, liquidated by the State Institution “HC of SCES” on the basis of medical institutions. To this end, the transfer of institutions, property and equipment to the Ministry of Health on

the transfer balance and act with the simultaneous creation of a separate structural unit – the medical service of places of detention. Introduction of the procedure of reorganization/liquidation of the State Institution “HC of SCES” by conducting an inventory, audit, drawing up a transfer balance, etc. and further transfer of property to the Ministry of Health. Medical workers dismissed from the SI “HC of SCES” (at their request) are employed in the specified institutions. Involvement of individual entrepreneur medical workers who will be able to provide medical services on the basis of contracts concluded directly with the SCES. Procurement of medical services for SCES under the simplified public procurement procedure (introduction of the criterion – medical care for convicts and prisoners – and setting a cost limit for such services – no more than UAH 350,000 per year (for individual entrepreneurs)).

In order to ensure the work of the medical units of the penitentiary system, transferring individual staff to them to provide medical care to convicts and detainees in their places of imprisonment/detention. In this case, the subordination, financing and management of the activities of the medical workers is carried out by the Ministry of Health (or, if they are individual entrepreneurs, respectively, they operate independently). To this end, medical units are organized in the penitentiary institutions, which provide primary care, diagnosis, counselling, fixation of injuries, outpatient treatment. The premises of the medical units belong to the penitentiary institutions and are leased to the Ministry of Health. Settlement of issues of providing premises for doctors and other medical staff of the Ministry of Health for placement of medical units in the penitentiary institutions and material support of these medical units by the Ministry of Health (premises are leased by SCES, material support is provided by the Ministry of Health).

7. Addressing the issue of remuneration of future employees of medical units in the penitentiary. This direction of reform should include measures that motivate health workers to work in the system of medical care for convicts and detainees. Given the trend of dismissal of health workers from the system of state and municipal institutions, it is necessary to introduce a system of material incentives and social protection of health workers. The wage system must have a guaranteed system of surcharges and allowances for work in difficult conditions and the stressful nature of work. Adoption of relevant regulations.

8. Organization of the work of the medical service of the MoH in the penitentiary institutions and the entire structural unit of the Ministry of Health:

9. Convicts and prisoners sent to penitentiaries and pre-trial detention centres are accounted for and registered in e-health. To do this, a separate module is created in the system, which is synchronized with the Unified Register of Convicts. It is impossible to enter information about a convict in this register without creating a medical declaration.

The drawing up of a medical declaration must take into account the absence of identity documents of a convict or detainee.

All declarations are accounted for and managed in this module exclusively by those health workers who work in the structural unit of the MoH, which takes care of the penitentiary institutions and pre-trial detention centres.

Doctors who treat convicts and prisoners are “family” doctors exclusively for these people. There are no other persons among their clients (patients).

The system allows convicts and prisoners to access all national medical programs.

The treatment is carried out in compliance with all norms, standards and requirements that exist in civilian medicine. Priority is given to treatment measures over security measures.

The system of medical institutions that are created to treat convicts and detainees is based on the facilities of the liquidated State Institution “HC of SCES”. The provision and financing of these institutions should create conditions for their maximum capacity (they should be able to provide the full range of medical services, have specialists of various specializations, appropriate equipment) in order to reduce the need to send convicts to other medical institutions. However, such cases (referrals to other institutions) should not be ruled out. Their possibility is provided by the requirements of treatment and is regulated by regulations and routes of movement of convicts and prisoners.

The general algorithm of activity of the medical service is the following.

A convict receives the full range of primary care (including outpatient treatment and counselling), basic diagnostic services and the opportunity to be tested in the medical units of the penitentiary.

If it is necessary to hospitalize the convict, he is sent to the institutions that are part of the structural unit of the MoH (the 16 hospitals of the HC of SCES, which we propose to transfer to the MoH). If it is necessary to place a convict or prisoner in an institution under the supervision of specialists who are not in the structural unit or if the patient’s condition requires services that can not be provided by the structural unit, the convict or prisoner is sent to another MoH institution according to the doctor’s recommendations.

The protection, supervision and movement of convicts and detainees is carried out by the SCES.

Medical institutions of the structural unit are equipped with appropriate material and technical means of protection and supervision. In the case of placement of convicts or detainees in other institutions, the protection, supervision and isolation of such persons in each case is provided based on the patient’s health, material and technical capabilities of the institution and the capacity of the SCES.

**DRAFT OF THE LAW OF UKRAINE**  
**«On amending the Criminal**  
**Executive Code of Ukraine,**  
**aimed at improving the health care**  
**and treatment of convicts,**  
**as well as prevention of spread**  
**of dangerous infectious diseases**  
**among convicts»<sup>1</sup>**

**Article 116. Basic provisions of medical and sanitary support of convicts**

1. Medical and sanitary support of convicts is the duty of the administration of penitentiary institutions, which is carried out in compliance with the rights of convicts and in accordance with the legislation on health care.

2. Administration of the penitentiary institutions is responsible for the health problems of convicts caused by inadequate health care measures or inadequate living conditions in penitentiary institutions, which could have been prevented by using measures available to the administration.

3. The main task of medical and sanitary support of convicts is the provision of timely, effective and proper medical assistance to the convicts and staff of the penitentiary institutions, the nature and scale of which should correspond to the system of standards in the health care sphere, clinical protocols for medical care and the procedure provided by law.

4. The medical and sanitary support of convicts should not show signs of punishment or coercion, nor should it cause the convicts suffering, degradation of their honour and dignity, torture or inhuman

<sup>1</sup> Author is Mykhailo Romanov.

treatment. It is prohibited to conduct any medical research and experiments on a convict, even with his/her consent.

**Article 116-1 Organization of medical and sanitary support of convicts**

1. Medical and sanitary support is organized through the formation of medical units in penitentiary institutions, as well as through the use of the medical institutions that are part of the Ministry of Health or private medical institutions for the treatment of the convict, in cases of such a decision by a medical worker. The main criterion in choosing a medical institution is the ability to provide the convict with full and effective medical care, as well as the convict's ability to finance treatment or medical research (analysis). If the convict does not have the ability to finance treatment or medical research, such support is provided free of charge in compliance with the requirements for maximum efficiency of the support, its sufficiency and the need for medical indicators.

2. A medical unit is created in each penitentiary institution, which includes a general practitioner and a paramedic. The medical unit is equipped with the necessary equipment, means of primary and emergency medical care, priority diagnostic tools and medicines in accordance with the requirements to medical institutions and facilities in a free society, which create conditions for medical care, outpatient and inpatient treatment on a proper and safe level.

3. The medical unit of the penitentiary institution is a structural subdivision of the health care institution of the Ministry of Health, which carries out activities in the field of health care, control over the health of convicts by conducting medical examinations, initial diagnosis, examinations, dispensary supervision, primary care, emergency medical care, outpatient and inpatient medical care in accordance with the provisions of the legislation in the field of health care in the conditions of serving a sentence of imprisonment in penitentiary institutions.

4. Infectious isolators are created in the medical units of the colonies to monitor and treat patients with infectious diseases in the medical units of the colonies.

5. A convict has the right to choose a doctor. If the convict insists on inviting a doctor for medical care or treatment, the administration is

obliged to facilitate the invitation of such a doctor. In such cases, counselling and outpatient treatment are provided in the medical units of the colonies at the place of serving the sentence in the presence of the medical unit staff. Expenses related to the calling the doctor, his arrival, medical care, treatment, purchase of medicines and other expenses shall be borne by the convict at his own expense or at the expense of relatives or friends.

6. The use of medical institutions that are part of the Ministry of Health or private medical institutions for the purpose of treatment of a convict may be carried out if the medical unit of the penitentiary institution is not able to provide the convict with necessary, complete and timely medical care, examination or treatment.

7. Provision of medical care and treatment of a convict in a medical institution that is part of the Ministry of Health or in a private medical institution is carried out at the expense of the convict, his relatives or close persons, in the manner prescribed by health legislation, taking into account the features provided by the criminal-executive legislation and the requirements of this Code.

**Article 116-2: The procedure for providing medical care and treatment in medical units of penitentiary institutions**

1. In the medical units of penitentiary institutions, convicts are provided with initial, emergency medical care, initial diagnosis and outpatient and inpatient treatment of convicts. In addition, medical units carry out mandatory medical examinations of convicts.

2. A convict has the right to see a doctor at any time of the day. The convict applies to the medical unit directly or through the administration of the penitentiary institution. If the convict turns to a doctor through the administration of the institution, the administration is obliged to give the convict the opportunity to meet with the doctor immediately, not later than within 30 minutes from the moment of the application. The convict's appeal to the doctor is recorded in the medical journal.

3. For the time of medical care, examination or treatment, the convict is dismissed from all activities carried out in the institution.

4. The procedure for providing the persons deprived of freedom with medical assistance, organizing and carrying out medical supervision, the use of medical and preventive and sanitary and preventive

health care institutions and the involvement of their medical staff for this purpose is determined by regulations of the Ministry of Justice of Ukraine and the central executive body, which ensures the formation of state policy in the field of health care.

**Article 161-3 The procedure for providing medical care and treatment outside penitentiary institutions**

1. The convict may be sent for medical care and treatment to medical institutions that are part of the Ministry of Health or to private medical institutions outside the penitentiary institution.

2. The decision on the need to send a convict to a medical institution that is a part of the Ministry of Health or a private medical institutions is made by a doctor or paramedic of the medical unit of the penitentiary institution who treated or provided medical care to the convict and who draws up a medical opinion. The conclusion substantiates the necessity of placing the convict in a medical institution outside the penitentiary institution and a specific medical institution is determined. The convict has the right to take part in deciding on the choice of a specific medical institution or a specific doctor who will provide further treatment.

3. The convict is sent to a medical institution that is a part of the Ministry of Health or a private medical institution by decision of the head of the penitentiary institution, agreed with the head of the territorial body of the central executive body implementing state policy in the field of execution of criminal penalties, with compliance with the rules of separate holding and provision of the protection and supervision over the convict as soon as possible, which in any case may not exceed two working days.

4. Convicts who are in inpatient treatment in medical institutions that are part of the Ministry of Health or private medical institutions outside the penitentiary institution are not given long visits. The realization of other rights of the convict is ensured by the relevant medical institution together with the staff of the State Penitentiary Service, taking into account the state of health of the convict and meeting the requirements of guarding, supervision and safety.

5. If the convict is provided with medical care or treatment on a paid basis, all costs related to medical care or treatment shall be borne by the convict or his relatives or close persons.

6. The procedure for providing medical care or treatment of convicts outside the penitentiary institution, as well as the conditions of detention and guarding of convicts in such institutions are determined by the Ministry of Justice of Ukraine and the central executive body that ensures the formation of state policy in health care.

**Article 161-4. Sanitary and epidemiological well-being of persons sentenced to imprisonment**

1. The penitentiary institutions create and maintain material and living conditions for convicts that meet standards, regulations and sanitary and epidemiological requirements.

2. Regardless of the level of security of the penitentiary institution, the temperature in all premises where the convicts are held shall not be lower than 18 °C, the humidity is 45–55%. The premises where convicts are held must be equipped with ventilation systems with the possibility of their ventilation and access to fresh air.

3. The administration shall ensure that the convict has constant access to natural light and fresh air during the daylight hours. The administration ensures that the convict has the opportunity and time for a walk, the duration of which must correspond to the security level of the colony and be at least two hours a day, have the opportunity and time for exercise and normal rest. During the dark period of the day, the administration provides adequate artificial lighting, which allows to meet all the necessary physical and spiritual needs (communication, eating, reading, drawing, moving, etc.) and which is completely turned off in rooms where convicts are held during their sleep, except the places of public use.

4. The administration shall provide daily cleaning with antiseptics and disinfectants in the premises of the institution, and twice a day in public places. The administration may involve convicts in these works in the order of priority for not more than two hours a day. Refusal of convicts to participate in these works may not be grounds for bringing to strict disciplinary or other legal liability.

5. Convicts are obliged to follow the rules of personal hygiene and comply with sanitary norms and requirements. If the convict does not have the means or the possibility to provide himself/herself with personal hygiene products (soap, toothpaste and brush, toilet paper, etc.), such means are provided to the convict free of charge ac-

ording to the norms approved by the central executive body. The administration provides convicts with the opportunity to take a shower and wash at least three times a week. The administration provides convicts with the opportunity to take care of their hair, wash their faces, shave, and perform other procedures aimed at maintaining personal hygiene.

6. Convicts suffering from viral or infectious diseases must be isolated within two hours of being diagnosed. The administration ensures the creation of medical isolators in the penitentiary institution to accommodate sick convicts. The need to isolate the convict is determined by a doctor or paramedic. The doctor's or paramedic's instruction on the need to isolate the convict is obligatory for the administration of the penitentiary institution. During the stay in the isolator, the convict's contacts with other persons are limited, except for short-term visits and meetings with a lawyer, which are carried out through a glass partition. The procedure and conditions of the convict's stay in medical isolators are determined by the regulations of the central executive body that implements the policy in the field of execution of punishments, as well as the central executive body that ensures the formation of state policy in health care sphere.

7. In the event of epidemics, pandemics, uncontrolled spread of certain diseases that are life-threatening, as well as the introduction of special conditions related to epidemics and uncontrolled spread of diseases, the introduction of quarantine measures, the administration of the penitentiary institution ensures the maintenance of the appropriate level of sanitary and epidemiological condition and strengthens sanitary and epidemiological measures. The order of actions aimed at strengthening sanitary and epidemiological measures is determined by regulations of the central executive body, which implements the policy in the field of execution of punishments. Strengthening sanitary and epidemiological measures may not reduce or limit the rights of convicts.

8. The sanitary and epidemiological condition of the institution is ensured by the administration of the institution, and is controlled by the medical unit of the institution. In addition, compliance with sanitary norms can be monitored by all subjects of supervision and control over the activities of the penitentiary institutions.

### **Article 161-5. Coercive measures related to maintaining the convict's health**

1. It is prohibited to apply to convicts coercive measures related to maintaining health, ensuring personal hygiene and complying with sanitary and epidemiological norms, except in cases envisioned by the legislation of Ukraine.

2. Compulsory feeding of a convict who has refused to eat is prohibited. Compulsory feeding can only be used on the basis of a court decision made on the basis of a reasoned opinion of the medical commission, which determined that the convict is in danger of a persistent health disorder and there is an obvious threat to his life. A person who has refused to eat must be under the constant supervision of a doctor from the moment this fact is established. In preparing the opinion, the medical commission, taking into account the state of health of the convict, determines the type of compulsory feeding. The issue of compulsory feeding is decided by the court in the manner prescribed by law.

3. The cases when the convict has a health disorder that resulted in loss of consciousness or cases where the convict's state of health requires emergency medical care, when the convict is unable to acknowledge and be aware of his state of health, is not able to critically assess the threat to his own life, are not considered compulsory treatment.

### **Article 161-6. Guarantees of convicts in the provision of medical care and treatment**

1. In being provided medical care, treatment and sanitary and epidemiological safety, convicts are guaranteed confidentiality, medical secrecy, inviolability, sexual segregation, consideration of the convict's opinion, delicacy, opportunity to refuse medical care and treatment, as well as the timely manner, completeness, effectiveness and adequacy of medical care and treatment.

2. The convicts receiving medical care, treatment or undergoing sanitary and epidemiological safety measures shall enjoy all human and civil rights, the rights granted to a convict.

3. Information obtained during the provision of medical care, treatment and sanitary and epidemiological safety, regarding the convict's state of health, his/her life and personal physical and mental characteristics, is confidential and not subject to disclosure and may

only be used for medical care, treatment and provision of sanitary and epidemiological safety.

4. Medical staff and other persons and staff of the penitentiary institution, who due to the performance of professional duties learned about the disease, medical examination, tests and their results, intimate and family aspects of life of a prisoner, shall bear civil, administrative or criminal liability in accordance with the law for disclosure of medical secrets.

5. Women sentenced to imprisonment are guaranteed the right not to provide information and not to be examined in connection with their history of reproductive health. At the woman's request, she must be provided with a medical examination by a woman doctor.

6. Medical examinations, medical care and treatment must be carried out with the participation of medical staff out of sight and audibility of the penitentiary staff. Exceptions may be in cases when the medical workers require security for themselves and/or protection of the convict or when the convict requires the presence of representatives of the administration of the penitentiary institution.

### **Article 63. Medical care for convicts**

1. Convicts sentenced to restriction of liberty are subject to the basic provisions of health care for convicts sentenced to imprisonment, as well as guarantees in the provision of medical care and treatment.

2. Medical care and treatment of convicts is carried out in medical units of the correctional centre or in medical institutions of the Ministry of Health, in private medical institutions.

3. The medical units of the correctional centre will conduct medical examinations of convicts, their initial diagnosis, and initial and emergency care. All other types of medical care and treatment are provided in medical institutions of the Ministry of Health or private medical institutions.

4. Medical care and treatment in medical institutions of the Ministry of Health or private medical institutions is organized and carried out on a general basis in accordance with the legislation on health care. Transfer of convicts to these medical institutions is carried out on the basis of a referral issued by a doctor of the medical unit of the correctional centre and is determined in accordance with the procedure for serving the population by health care institutions.

5. Persons sentenced to restriction of liberty who are in medical institutions are guaranteed their rights. At this time, they are exempt from work and other activities organized for those sentenced to imprisonment.

**Article 105. Special conditions regime in the colonies**

1. In cases of natural disasters, epidemics, declarations of pandemics, accidents of vital systems, mass riots, group disobedience of convicts or in case of a real threat of armed attack on the colony or in connection with local or national quarantine, state of emergency or martial law. The guarding and supervision of convicts is being strengthened in the area where the colony is located, additional sanitary and epidemiological measures and restrictions are introduced, and other additional regime measures are taken. The measures introduced must be commensurate with the extent and intensity of the threat posed in the territory or in the country as a whole and cannot be based on assumptions and excessive preventive measures.

2. To stop group illegal actions of convicts and eliminate their consequences, by the decision of the Head of the central executive body implementing the state policy in the field of execution of criminal punishments, the head of the department (unit) of the central executive body implementing the state policy in the field of execution of criminal punishments in the Autonomous Republic Crimea, oblasts, the city of Kyiv and the Kyiv oblast, the forces and means of the colony, penitentiary bodies and institutions shall be used, and if necessary, with the permission of the Minister of Internal Affairs of Ukraine, the Head of the National Police, the head of the territorial body of the National Police — the forces of the bodies and divisions of the National Police.

3. Specific types and lists of measures imposed within penitentiary institutions are determined by order of the head of the institution, and in the case of additional sanitary-epidemic and other measures throughout the state — by the regulations of the central executive body implementing policy in the field of execution of punishments.

4. The Minister of Justice of Ukraine shall be immediately informed about the introduction of the special conditions regime in penitentiary institutions.

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**РЕФОРМА  
МЕДИЧНОЇ СФЕРИ  
ПЕНІТЕНЦІАРНОЇ СИСТЕМИ**

*(англійською мовою)*

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