



United Nations Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Official visit to Ukraine

4 – 10 September 2023

STATEMENT OF PRELIMINARY FINDINGS AND RECOMMENDATIONS

Kyiv, 10 September 2023

At the invitation of the Government of Ukraine, I visited the country from 4 to 10 September 2023.

The visit focused primarily on the procedures and practices of investigation and prosecution of crimes of torture committed in the context of the armed conflict, including rape and other sexual violence.

I also reviewed the treatment and conditions of detention of prisoners of war (PoWs), those accused of war-related crimes and those otherwise facing charges in connection with the conflict.

I visited two places of deprivation of liberty; and was able to hold confidential interviews with prisoners of war and other conflict-related detainees.

I met with victims and survivors who bravely shared their traumatic experiences with me for which I am deeply grateful.

I wish to extend my sincere gratitude to the Government of Ukraine for the invitation to visit the country and their full cooperation during my visit, in spite of the heavy toll and complexities of hosting my visit within an international armed conflict.

I am committed to continuing the important conversations and offer my expertise to the authorities to help implement the recommendations that will be contained in the report.

During the visit, I met with the Minister of Justice; the Deputy Minister of Justice; the Deputy Minister of Internal Affairs; members of the Supreme Court; the Prosecutor

General and Heads of new units in charge of torture prosecutions; representatives of the Coordination Headquarters on the Treatment of Prisoners of War; the State Bureau of Investigation; the Security Service of Ukraine; and the Ukrainian Parliament Commissioner for Human Rights (Ombudsman) incorporating the National Preventive Mechanism.

I also met with representatives of the diplomatic community in Kyiv, international organizations, and civil society organisations.

I am grateful to the Office of the United Nations Resident Coordinator in Ukraine, the United Nations Development Programme in Ukraine and the Office of the High Commissioner for Human Rights for their support for the visit.

I will present my final report with a more detailed analysis and additional recommendations to the United Nations Human Rights Council in March 2024.

Allegations of torture and other cruel, inhuman and degrading treatment or punishment

The volume of credible allegations of torture and other inhumane acts that are being perpetrated against civilians and prisoners of war by Russian authorities appears to be unabating.

These grievous acts appear neither random nor incidental, but rather orchestrated as part of a State policy to intimidate, to instil fear, to punish, or to extract information and confessions.

I gathered harrowing testimonies involving electricity charges being applied to ears and genitals, beatings of all kinds, mock executions at gunpoint, simulated drowning, being required to hold stress positions, threats of rape or death, and various ceremonies of ridicule and humiliation. Ukrainian returned civilians and soldiers recounted being crowded in basements and cells, in congested conditions, and being poorly fed. Several recounted dangerous levels of lost weight.

I stress that such acts would constitute torture or other cruel, inhuman or degrading treatment or punishment, prohibited at all times and in all circumstances under international human rights and humanitarian law.

I commend the Government on the inter-agency coordination of the full spectrum of support for victims and survivors, including rehabilitation services through the Coordination Headquarters on the Treatment of Prisoners of War.

Investigation and prosecution of crimes of torture and other ill-treatment

During the visit, I reviewed the procedures and practices of investigation and prosecution of such crimes of torture committed within the context of the armed conflict. According to government figures, there are over 103,000 war crimes proceedings so far registered.

A major challenge for the authorities is handling the enormity of the allegations, which has required the upscaling of operations, staffing and skill sets. The work that the Ukrainian authorities are undertaking to document war crimes is all the more impressive given that it is being carried out ‘in real time’. That early action is virtually unprecedented anywhere in the world and will pay justice dividends later.

The international duty on every country to investigate and prosecute crimes of torture and other inhuman acts is not altered by war or other exceptional circumstances. Yet these circumstances definitely pose great challenges for any system.

I was briefed on multiple obstacles to achieving justice for victims, including:

- the inaccessibility of presently occupied areas;
- the loss of crucial evidence due to deterioration and lapse of time between the crime and liberation when investigations can begin;
- the damage and/or destruction of court buildings¹;
- adapting the criminal justice system, including in terms of financial, technical and human resources, to be able to process and prosecute international atrocity crimes, requiring legislative and procedural reforms.

The government reported having strengthened its system of regional prosecutors by establishing mobile investigation units, has expanded forensic expertise and testing facilities, and is upgrading technology and evidence gathering techniques.

I have noted that legislative and procedural reforms as well as strategy documents to combat torture have been adopted by the relevant authorities.

However, there is a need to strengthen national capacity on, including translating the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition – the “Istanbul Protocol”); and the Principles on Effective Interviewing for Investigations and Information Gathering (the “Mendez Principles”).

I refer the authorities also to the Convention against Torture Initiative (CTI) training manual on Investigative Interviewing for Criminal Cases which is applicable to suspects, witnesses and victims of torture.

Conditions and treatment of Russian prisoners of war

I visited the Prisoners of War camp Zakhid-1, located in Zaklad, in the outskirts of L’viv.

¹ It was reported to me that 116 court buildings had been damaged and 13 completely destroyed since 24 February 2022.

I found that sincere efforts have been made by the Ukrainian authorities to treat Russian prisoners of war respectfully. PoWs are accommodated in barrack-style buildings in which they are provided with all bedding, clothing, hygienic items and meals.

The facility was clean and orderly. Prisoners were being well fed and were receiving medical attention. They are engaged in paid work and have outdoor space, including a soccer field, access to a library, TV and efforts have been made to introduce greenery in various locations.

They were able to practice their religion. There is also a church on site; an imam visits Muslim prisoners.

They are also able to be in touch with their families in the Russian Federation via i-telephony, a system especially created to allow cross-line communications. Prisoners and the camp are regularly visited by the International Committee of the Red Cross.

Of the prisoners I interviewed, they expressed being satisfied with the treatment received, while some of them were anxious due to not knowing when they would be able to go home and the overall uncertainties surrounding possible prisoner exchanges.

I received information of instances of abusive treatment of Russian soldiers during capture and transfer. Such complaints need to be fully investigated.

I also visited the health facility on-site and I could see that good care was being provided to a large number of PoWs injured in battle.

Conditions and treatment of persons accused of war-related crimes or otherwise facing charges in connection with the conflict

In L'viv, I visited the Penal Facility no. 19. It is my assessment that, owing to the infrastructural challenges of an historic penitentiary, international standards cannot be met fully.

I noted efforts to renovate some parts of the prison. However, of those rooms I inspected, the detainees were in cells that were overcrowded unnecessarily as the centre was not at full occupation. Detainees were living in cramped conditions even though there were other cells available, including new, empty renovated ones. On the day I visited, the rooms were hot and appeared to lack adequate ventilation. I refer to the CPT standards on space per detainee² and urge the authorities to apply them without delay.

There was a clear lack of meaningful daily activities and some detainees reported being held in their cells 22 hours or more on a continuous basis and with frequently less than one hour of outside time. I stress that, pursuant to the Nelson Mandela Rules, recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners (Rule 105).

² CPT/Inf (2015) 44

I also point out that un-convicted prisoners are presumed to be innocent and shall be treated as such (Rule 111). Untried prisoners shall sleep singly in separate rooms (Rule 113).

I considered that the health intake procedure was adequate, and I welcome the growing drug rehabilitation program. I received complaints about the challenges in coordinating transfers for specialized treatment to the central hospital.

I welcome the daily presence of an on-site psychologist. I found the dietary and food provision was adequate. The facility had adequate stocks in the event of extended emergencies.

I take note that the prison authorities explained that plans for a new facility and the closure of this one have been delayed owing to the current situation.

I encourage relevant authorities and the National Preventive Mechanism to look into these issues.

Conclusion

As the visit comes to an end, I wish to reiterate my thanks to the Government and other stakeholders for being so forthcoming in sharing their challenges and discussing possible solutions in what is an extremely difficult period. I am dedicated to supporting the Government's efforts to safeguard everyone's right to be free from torture.
