

Benita Ferrero-Waldner
Commissioner for External Relations
European Commission

Brussels, 6 March 2008
Our ref. B754

Dear Ms. Ferrero-Waldner,

Subject: EU-Ukraine Troika

In light of the upcoming EU-Ukraine Troika meeting on 11 March, Amnesty International would like to draw your attention to the following human rights concerns.

Reform of the criminal justice system

Ukraine has introduced changes to the criminal justice system aimed at bringing it into line with the European Convention on Human Rights. However, the system still retains many features of the inherently repressive Soviet criminal justice system. Amnesty International has previously highlighted the shortcomings in the Criminal Procedural Code that fails to guarantee for detainees the rights to access to a lawyer or medical care.

Amnesty International considers that impunity is partly rooted in the role of the Public Prosecutor who is key in the prosecution of cases, as well as in the investigation of allegations of torture and other ill-treatment. When applying to join the Council of Europe in 1995, Ukraine committed itself to reform the role and functions of the Prosecutor's Office in order to bring this institution into line with Council of Europe's standards. However, Ukraine has not yet fulfilled this commitment.

Torture and ill-treatment in police custody

Amnesty International continues to receive reports of torture and ill-treatment of individuals detained in police custody, according to which suspects and detainees are frequently not informed of their right to a lawyer or to have a lawyer present during questioning. The right to legal assistance is set out in Ukrainian legislation and the Criminal Procedural Code lists exceptional circumstances when the presence of a lawyer is required such as for detainees with disabilities and minors, but otherwise a lawyer is required only when requested by the detainee. However, detainees are not properly informed of their rights in most cases. Even though the Minister of Internal Affairs issued an order in April 2006 that all detainees must be informed of their rights, no practical measures have yet been agreed as to how this will be done.

Eduard Furman was reportedly detained and tortured in April 2007 on the basis of an allegedly fabricated administrative charge. He remains in detention and the Prosecutor General's Office has so far refused to open an investigation into the allegations. According to Amnesty International's research, perpetrators of torture or ill-treatment enjoy effective impunity. If brought to court, acts of torture or ill-treatment by police officers are prosecuted under two articles of the Criminal Code: Article 127 which criminalises torture and Article 365 which allows the prosecution of police officers for exceeding authority or official powers. However, despite these legal provisions, victims find it difficult to lodge complaints with prosecutors, to get their complaints investigated promptly, independently and impartially, and to obtain justice through those responsible being prosecuted.

Conditions in detention and deaths in custody

In a country with a very high rate of tuberculosis, overcrowding and poor conditions in pre-trial detention have led to a high rate of infection among detainees. On 25 October 2007, the European Court of Human Rights ruled that Ukraine had violated the prohibition against torture and other inhuman or degrading treatment under the European Convention on Human Rights. Oleg Yakovenko had been held in conditions that were degrading and was deprived of timely and appropriate medical assistance and treatment.

According to statistics gathered by the Ombudsperson's office, 130-135 people died annually in detention in remand prison (SIZOs) between 2004 and 2007. Most deaths were due to inadequate medical care, including failure to diagnose pre-existing medical conditions.

Amnesty International calls on the Commission to urge the Ukrainian authorities to:

- Further reform the Criminal Procedural Code to ensure the presence of a lawyer during police interrogations, as well as the recording of all interrogations, preferably with the use of video/audio equipment;
- Ensure the launching of investigations by prosecutors and judges whenever a person brought before them alleges torture or other ill-treatment;
- Ensure that those responsible for torture or other ill-treatment are brought to justice;
- Ensure adequate reparation, compensation and protection from reprisals for victims of torture;
- To take steps to set up an independent body aimed at monitoring places of detention in accordance with Ukraine's obligations under the Optional Protocol to the Convention against Torture;
- Ensure that detainees are held in conditions that meet international standards and implement fully the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding conditions in pre-trial detention;
- Ensure that law enforcement officers, prosecutors and judges involved in enforcing the law relating to racist crimes fully understand the nature of such crimes.

Amnesty International urges the Commission to use the opportunity of the Troika meeting to discuss these concerns with the Ukrainian authorities. We look forward to hearing from you as to the outcome of these discussions.

Yours sincerely,



Natalia Alonso

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