

Summary
of the Special Report of the Ukrainian Parliament Commissioner for Human Rights ‘On Violations of Human Rights and Freedoms During Events which Happened in Ukraine over the Period since 21 November 2013 to 22 February 2014’

On 28 February 2014 the Ombudsman of Ukraine Mrs. Valeriya Lutkovska presented her Special Report ‘On Violations of Human Rights and Freedoms During Events which Happened in Ukraine over the Period since 21 November 2013 to 22 February 2014’ according to paragraph 3 Article 18 of the Law of Ukraine ‘On the Ukrainian Parliament Commissioner for Human Rights’.

In this short period of time in Ukraine there have happened the events that have been not only unprecedented in its significance but also very tragic for the Ukrainian people due to the huge number of victims and mass violations of human rights.

Documents and information accumulated by the Commissioner for Human Rights within the framework of the proceedings carried out during this period are presented and analyzed in chronological order in the Report.

In fact, the Ombudsman of Ukraine became the first official in the state who officially expressed her position on the events of 30 November 2013 in Kyiv when the peaceful protesters most of whom – students, were beaten. On the same day, the Commissioner for Human Rights published an open statement to those who considered themselves as victims of the use of force by the police and asked them to lodge relevant petitions to the Commissioner.

So, from the first day of these tragic events the Ombudsman has launched her monitoring of the situation, operational check of all reports concerning human rights violations, in particular with on-site visits and visits to places of deprivation of liberty and medical facilities, facilitation of the search for missing persons, mediation between protestors and law enforcement bodies, dissemination of the information about international standards in the field of the right to peaceful assembly and use of force and special means by law enforcement bodies in relation to the protestors.

It is important to note that these measures were taken in close cooperation with NGOs. Thus the cooperation between the Commissioner for Human Rights and representatives of civil society allowed to respond to events not only in Kyiv but also in the regions. The Commissioner’s Regional Coordinators for Public Relations in Cherkasy and Dnipropetrovsk regions visited detained persons in pre-trial detention facilities and hospitals and met with each of them.

Interaction of the Commissioner for Human Rights with the Coordination Centre for Legal Aid allowed to quickly obtain information about each detainee.

The help to each particular person was very important at this tragic time but not least important is that the Commissioner revealed a number of systemic problems in the field of ensuring human rights during the protest actions, which require appropriate legislative amendments, improvement of the administrative and judicial practice, relevant response from the Prosecutor's Office and the Ministry of Internal Affairs.

Among the identified systemic problems there are, inter alia:

- The lack of national legislation which would clearly regulate all aspects of exercising of the human right to freedom of peaceful assembly;
- Violation of a number of procedural rights of peaceful protesters during arrest and detention in places of deprivation of liberty;
- Unlawful and excessive use of physical force and special means by the officers of special police units "Berkut" in relation to the protesters that led to a number of facts of bodily injuries caused to the participants of peaceful assemblies and journalists;
- Lack of effective, impartial, objective and transparent investigation of all facts of use of physical force and special means by the officers of law enforcement agencies in relation to the protesters and journalists, facts of disappearance of the latter, damage to their property and cars; civil society was not properly informed of the results of the investigation of these facts and of bringing the perpetrators to justice;
- Unlawful and excessive use of physical force by the police in relation to underage persons during arrest, as well as violation of procedures of their arrest, questioning and detention; lack of coordination between state authorities, whose mandate include the issues of protection of rights, freedoms and interests of a child, when a child is suspected of having committed an offense or becomes a witness or victim.

Based on the results of the monitoring the Commissioner for Human Rights has submitted a number of recommendations to public authorities of Ukraine aimed at solving all discovered systemic problems in this sphere and prevention of such human rights violations in the future:

Thus, the Verkhovna Rada (Parliament) of Ukraine should:

- Adopt the law on freedom of peaceful assembly which will provide for clear rules for all participants of peaceful assemblies and exhaustive list of grounds for intervention in the exercise of the right to peaceful assembly, as well as grounds and ways of limitation of freedom of peaceful assembly in the interests protected by the first paragraph of Article 39 of the Constitution of Ukraine.

- Amend the Law of Ukraine "On Militia" in order to provide for the introduction of personal markings for police officers serving in official uniform as well as to establish clear rules of the use of special means.

It is recommended to the General Prosecutor of Ukraine to:

- Ensure an effective investigation of every fact of use by police officers of force, special means and firearms with due regard to the case-law of the European Court of Human Rights that would allow to clarify all circumstances of the case and, in the case of human rights violations, bring perpetrators to justice.
- Ensure proper prosecutorial supervision over the observance of the Criminal Procedure Code of Ukraine with regard to ensuring human rights; to take measures of prosecutorial response to every case of violation of procedural rights in relation to participants of peaceful demonstrations.
- Ensure proper control over the lawfulness of detention on suspicion of committing crimes of those involved in participation in mass events, sufficiency of available evidences for bail hearings in relation to these persons.

The Commissioner for Human Rights submitted a significant number of important recommendations to the Ministry of Internal Affairs of Ukraine, in particular:

- Install video surveillance system at the entrance of every without exclusion agency and department of law enforcement bodies, police dispatch centers, corridors, investigative rooms, with archiving videos for a period of not less than one month.
- Ensure proper record of persons who stay in the police premises as well as daily control over filling in registration books of delivered persons, visitors and guests in accordance with the requirements of the Regulations, approved by the order of the Ministry of Internal Affairs of Ukraine of 28.04.2009 № 181.
- Organize the proper fulfillment of the obligation to inform without delay the centers for free legal aid about the detention of persons in accordance with Article 213 of the Criminal Procedure Code of Ukraine.
- Provide for immediate notification of relatives of persons detained within the administrative order as well as on suspicion of committing a crime.
- Exclude cases of exceeding permitted term of detention of persons in the temporary holding facilities and rooms for delivered and detained of dispatch centers of the regional police units.
- Equip the investigative and other measures rooms of the agencies and departments of law enforcement bodies in accordance with

legislation. Cease the practice of holding people in unassigned areas (offices, corridors, etc.).

- Review the state and effectiveness of study of human rights issues during professional trainings, career enhancement trainings and specialization trainings of law enforcement officers. In case of necessity to take measures in order to implement training programs and courses on human rights issues in the work of the police. Provide for mandatory annual tests on human rights in the system of professional training for police officers.
- Exclude cases of participation in maintenance of public order during mass events of community groups of dubious origin (or character) except for units registered in the manner foreseen by the Law of Ukraine "On Participation of Citizens in the Protection of Public Order and State Border" and solely for territory of the local government unit where they are registered.

Ombudsman of Ukraine hopes that these recommendations will be duly considered by the Parliament of Ukraine as well as by the other public authorities and expresses her conviction that the Ukrainian society will make appropriate conclusions from the events of the past three months, that will allow to change for better the state of observance of rights of every individual.