

PUBLIC APPEAL

Ukraine

Torture and ill-treatment in police detention

On 3 May 2005, Amnesty International wrote to the Ukrainian authorities regarding a number of individuals who had been subjected to torture and ill-treatment while in police custody. On 1 July 2005, Amnesty International received a reply from the Minister of Internal Affairs, its first response from the new government. While Amnesty International welcomes the Minister's assertion that the government is taking positive steps to investigate the allegations, the organization is continuing to urge that any such investigations are prompt, comprehensive and impartial and that victims receive reparation, including compensation.

The first set of allegations raised by Amnesty International concerns a group of people from Simferopol in the Crimea. At various times between January and February 2004, Gennadii Vladimirov, Valerii Vladimirov, Yurii Barsiuk, Tatiana Doroshenko, her 18-month-old son, Oleg and Tatiana Vorobiova, all from Mazanka village, were held in police detention by the Simferopol district department of the Ministry of Internal Affairs, during an investigation into an alleged assault on an individual. Amnesty International is disturbed by reports that all the adults were reportedly subjected to torture and ill-treatment in order to force them to confess or give testimony regarding the alleged crime.



Tatiana Doroshenko and her son, Oleg.
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Amnesty International expressed particular concern in relation to the treatment of Tatiana Doroshenko, and her 18-month-old son, Oleg, on 21 February 2004. Tatiana Doroshenko was detained, with her son, at 6.30am at the Simferopol district department of the Ministry of Internal Affairs, as a possible witness to the crime. Oleg was ill and had a high temperature. They were separated once they arrived at the police station, and Tatiana Doroshenko was told that she would be reunited with her child only if she testified against Gennadii and Valerii Vladimirov and Yury Barsiuk, all of whom had been identified as suspects by the police. At 9.30am Oleg's condition deteriorated and an ambulance was called. The paramedics diagnosed a severe respiratory viral infection, and gave the child sedatives and a pain killer. The child reportedly remained in the police station, separated from his mother and was not fed or given anything to drink until 6pm, when he and his mother were allowed to go home.

The Convention on the Rights of the Child, to which Ukraine is a state party, unequivocally states that children should not be separated from their parents except when such separation is in the best interests of the child and that children should be detained only as a last measure. The use of a child in this case to exert pressure on the mother is in violation of the Convention.

Equally, the alleged torture and ill-treatment in detention of the individuals would be in breach of Ukraine's commitments under various international standards to which it is a state party, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights (ICCPR). Of additional concern is that none of the victims was given prompt access to a lawyer, and they were only able to consult a lawyer once they were no longer in detention, also in violation of international standards including the ECHR and the ICCPR, by which all detainees have the right to defence.

In his recent letter, the Ukrainian Minister of Internal Affairs has confirmed that after Amnesty International raised its concerns in May, a commission of enquiry was sent from the Ministry of Internal Affairs in Kiev to Simferopol, between 8 -10 June 2005, to investigate the allegations. Following this, Gennadii and Valerii Vladimirov were awarded damages of 1,000 hryvnia (approximately \$200), although no action has been taken against the officers involved, who were interviewed by the commission. A complaint is also currently being filed by the lawyer of Gennadii and Valerii Vladimirov against the Simferopol police department regarding the treatment suffered by Tatiana Doroshenko and her son, Oleg.

The second case raised by Amnesty International in May, illustrates the problems individuals face when seeking redress as victims of torture and ill-treatment they have suffered. It concerns a family of three who were allegedly subjected to torture and ill-treatment in August 2001, by police officers from Chernihiv city police station, in order to force them to hand over an electric drill and a gas pistol. This is a firearm propelled by pressurized gas rather than gunpowder which is less dangerous and less regulated than a normal firearm. These weapons are commonly owned in Ukraine. Reportedly, Mikhailo Koval, his wife Anna Koval and their son Dmitrii Brik (Koval) were beaten by plain clothes police officers outside their home on 14 August. Mikhailo Koval and his son Dmitrii Brik were then taken to the city police station where they were put into separate rooms and allegedly both beaten in order to force them to sign a statement saying that they had voluntarily handed over the drill and the gas pistol to the police. Following their release that same day, both men sought medical treatment which confirmed that Mikhailo Koval was suffering from concussion and a broken rib as well as bruising and cuts while Dmitrii Brik had a burst eardrum, bruising and concussion.



Mikhailo Koval. © AI

On 9 November 2001, Mikhailo Koval was informed by the Ministry of Internal Affairs in Chernihiv that a criminal case had been started against one police officer, who allegedly had been the ring leader. The officer was being charged under Article 365 of the new Criminal Code: "Excess of authority or official powers", which carries a sentence of three to 10 years depending on the gravity of the crime. However, the charge was dropped and no prosecutions were made.

For over three years in the face of threats from the police officers concerned and a subsequent violent attack by a stranger, Mikhailo Koval has attempted to gain redress and has asked for the police officers to be brought to justice. While the letter received by Amnesty International from the Ministry of Internal Affairs states that disciplinary measures were being taken against the police officers it does not specify what these measures are.

Background information:

Amnesty International is very concerned by persistent reports of torture and ill-treatment of individuals detained in police custody by law enforcement officials in Ukraine. Torture and ill-treatment in pre-trial detention are widespread and used routinely to elicit forced confessions from prisoners. The Council of Europe Committee for the Prevention of Torture (CPT) stated in its report, following a visit to Ukraine in November to December 2004, that people arrested by the Ukrainian police “run a significant risk of being physically ill-treated at the time of their apprehension and/or while in the custody of the Militia (particularly when being questioned), and that on occasion resort may be had to severe ill-treatment/torture”.

Amnesty International is concerned by the apparently pervasive culture of impunity which allows the practice of torture and ill-treatment to persist and for law enforcement officials to remain, on the whole, unaccountable. The official response to human rights violations is all too often complacent and wholly inadequate.

Since 2000, both the UN Human Rights Committee (HRC) and the CPT have found that Ukraine falls short of its obligations to prevent torture and ill-treatment. Amnesty International believes that the new government presents an opportunity to significantly improve the protection of human rights, and more specifically to identify and remedy the various malpractices which allow torture and ill-treatment in police custody to continue.

TAKE ACTION NOW!

Please write appeals to arrive as quickly as possible to the Ukrainian authorities, in Russian, English or your own language:

- welcoming the response, sent on 1 July from the Minister of Internal Affairs to Amnesty International, and asking for specific information about the disciplinary measures taken against the police officers concerned, and asking for further information about any criminal proceedings instituted;
- urging Ukraine to ratify the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), by which state parties will allow independent international experts to conduct regular visits to places of detention;
- expressing your serious concern for the separation of Tatiana Doroshenko from her 18-month-old Oleg while in detention, citing Article 9 of the Convention of the Rights of the Child, to which Ukraine is a state party, which states, “...a child shall not be separated from his or her parents, except when competent authorities subject to judicial review determine...that such separation is necessary for the best interests of the child.”;
- expressing your concern for the alleged ill-treatment of individuals in detention in Simferopol and Chernihiv, citing Article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Ukraine is a state party, which states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”;
- requesting that the Ukrainian authorities ensure that all detainees are fully informed of their rights and are able to exercise them in accordance with international standards, including having access to a lawyer at all stages of detention;
- demanding that prompt, impartial and thorough investigations into all complaints of torture and ill-treatment of detainees are carried out, citing Article 12 of the Convention against Torture which states that, “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction”;
- calling for anyone reasonably suspected of being responsible for subjecting individuals to torture and ill-treatment to be brought to justice in proceedings that meet international standards;

- urging the Ukrainian authorities to provide redress to all victims of torture, citing Article 14 of the Convention against Torture, which states, "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible."

Please send you appeals to:

Minister of Justice of Ukraine

Roman ZVARICH

Vul. Horodetskogo, 13

01001 Kyiv

UKRAINE

Fax: +380 44 278 37 23 (if someone answers, say "fax please")

Salutation: Dear Minister

Procurator General of Ukraine

Svyatoslav PISKUN

Riznitska Str.13/15

01601 Kyiv

UKRAINE

Fax: +380 44 290 2603 (if someone answers, say "fax please")

Salutation: Dear Procurator General

Minister of Internal Affairs of Ukraine

Yuri LUTSENKO

Vul. Akademika Bohomoltsa, 10

01024 Kyiv

UKRAINE

Fax: +380 44 256 16 33 (if someone answers, say "fax please")

Salutation: Dear Minister

Human Rights Ombudsperson

Nina KARPACHOVA

21/8, Instytutaska Str.,

01008 Kyiv

UKRAINE

E-mail: omb@ombudsman.kiev.ua

Salutation: Dear Mrs Karpachova

and to diplomatic representatives of Ukraine accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat on +44 (0)207 413 5795, or your section office, if sending appeals after 30 September 2005.