



## UKRAINE: A NEW COUNTRY OR BUSINESS AS USUAL?

### INTRODUCTION

In his inauguration speech on 7 June President Poroshenko promised to bring Ukraine closer to Europe and “to build a new great country”. The Ukrainian government now has the opportunity to set the country on a new course, and ensure that Ukraine lives up to its human rights obligations under the European Convention on Human Rights.

One of the biggest problems that the Ukrainian government must address is torture and other ill-treatment. The human rights violations committed by police officers during the four months of the EuroMaydan demonstrations shone a spotlight on this systemic problem and should prompt the new government to take decisive measures to end impunity for such acts. As a first step, the violations committed during EuroMaydan must be promptly, effectively and independently investigated, and in the long term the government must establish an independent mechanism to investigate complaints against the police.

Seven months on from the start of the EuroMaydan demonstrations in Kyiv in November 2013, the victims of abusive use of force by the police are still waiting for justice. There has been slow and partial progress on the investigations. Amnesty International is concerned that the Ukrainian authorities are not investigating individual complaints of human rights violations by police officers as required by the European Convention on Human Rights and the Convention against Torture. If the Ukrainian authorities fail to carry out effective investigations of all such allegations and prosecute the perpetrators in a transparent and non-politicised manner, they will effectively reinforce a longstanding climate of impunity that will lead to further abuses.

The new government is currently facing significant challenges with the occupation of Crimea by Russia, and the outbreak of hostilities in the East, however, if it fails to provide justice for the victims of EuroMaydan it will betray the hopes of many who took part in the demonstrations.

### THE EVENTS

Demonstrations broke out in Kyiv on 21 November 2013 when the government announced that it was stopping preparations for an Association Agreement with the EU. Protestors erected tents in Independence Square (Maydan Nezalezhnosti) in the centre of the capital, Kyiv. The demonstration was named “EuroMaydan” (ЄвроМайдан) with reference to the anti-government demonstrations in 2004. Following the violent dispersal of this peaceful demonstration on the night of 29-30 November the demonstrators became increasingly radicalized. Video footage of the dispersal on 30 November shows riot police officers (also known as Berkut) using batons and kicking peaceful protestors and in some cases pursuing men and women in order to hit them. It shows the crowd remaining peaceful despite the police onslaught.<sup>1</sup> Following these events protestors occupied Kyiv City Hall and the Trade Union Building from which the protest was coordinated. On 1 December there was a violent confrontation between a group of protestors and Berkut riot police on Bankova Street near the Presidential Administration building. In January there was a further escalation. On 20 January 2014, following the passage of a package of repressive laws by parliament.<sup>2</sup> a group of protestors marched on parliament and a violent confrontation between protestors and Berkut riot police then ensued on Grushevskiy street and lasted on and off for the next month.

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<sup>1</sup> A more detailed description of these events can be found in *Ukraine: “EuroMaydan”: Human rights violations during protests in Ukraine*, AI Index: EUR50/020/2013, <http://www.amnesty.org/en/library/asset/EUR50/020/2013/en/75c9fb6c-23a4-4b34-921d-94ba667ed378/eur500202013en.pdf>

<sup>2</sup> For an analysis of the laws please see: *Ukraine: Repressive legislation threatens freedom of expression, assembly and association*, AI Index: EUR50/001/2014, <http://www.amnesty.org/en/library/info/EUR50/001/2014/en>



On 18 February, the violence escalated sharply and up to 25 people were shot dead on that day. The trade union building that had been occupied and used as a make-shift hospital by the protestors was set on fire by unknown individuals and an unknown number of wounded were burnt to death. The violence continued on 19 and 20 February, until on 21 February an agreement was signed between President Viktor Yanukovich and members of the opposition, brokered by the German and Polish foreign ministers. However, the violence only effectively ended after Viktor Yanukovich left the country, on 22 February 2014, and the parliament voted to create an interim government and call presidential elections on 25 May.

According to Ministry of Health figures, 103 people died during the EuroMaydan events. The NGO Evromaydan SOS, believes that 83 demonstrators died as a direct result of violence, or died subsequently of their injuries, and 18 police officers were killed during the demonstrations. There are no exact figures for the number of wounded. Evromaydan SOS estimates that there were at least 1,000 serious injuries, but has only documented 300 cases so far.<sup>3</sup>

## **BANKOVA STREET**

On 1 December 2013 violent clashes erupted between police and a small number of violent protestors at the front of a group of hundreds of peaceful demonstrators on Bankova Street outside the Presidential Administration building. Video footage shows these protestors driving a tractor and wielding heavy chains and other weapons. Many observers have claimed that there were provocateurs among the violent protestors, but this information has not been confirmed. None of those that the video footage shows as being responsible for the worst of the violence have been arrested or charged. At least 50 Berkut riot police officers and hundreds of protestors were injured before the protest was dispersed a few hours later at about 5pm. There are reports of abusive use of force by police towards peaceful protestors and the wounded. Further video footage shows about a dozen injured people lying on the street and riot police kicking and hitting them with batons.

Nine protestors were detained on Bankova Street by Berkut officers and subsequently charged with "organizing mass disorder", a crime that carries a maximum sentence of eight years, and judges ordered their pre-trial detention in proceedings which violated their rights. All the charges were dropped under an amnesty law passed by parliament at the end of January. While there had been violent individuals on Bankova Street, there is no evidence that the nine who were detained were among them, and in most cases they had received injuries which immobilised them, and which appears to have been the sole reason for their subsequent arrest. Out of nine, eight were immediately hospitalized due to the severity of the injuries sustained at the hands of police.

**YEVGEN PREVIR was one of the nine who was interviewed by Amnesty International. He was detained on 1 December on Bankova Street, and was made to lie on the ground outside the Presidential Administration for over 2 hours in freezing temperatures along with the eight others. He told Amnesty International: "They made me lie on my stomach with my legs apart and pulled my arms up behind me by the handcuffs until I couldn't move any more. .... One [Berkut officer] pulled on my arms and the other pushed my legs apart and stamped on my ankles to cause pain. The other kicked me in my genitals. One had his foot on my head and he pressed on my jaw and my nose – my nose was broken." He told Amnesty International that at one point Berkut riot police officers sprayed tear gas directly into his face and then one removed the ribbon in the colours of the national flag that he was wearing and tried to force it up his nose.**

## **GRUSHEVSKIY STREET**

Violence escalated on both sides during the demonstrations on Grushevskiy Street that started on 20 January and lasted for the rest of the month. At this point the protestors were throwing molotov cocktails, fireworks, paving stones and were armed with batons. The riot police responded with abusive use of force and subjected some of those present on the street to torture and other ill-treatment. Medical workers also testified that the police deliberately misused equipment such as stun grenades and rubber bullets to cause deliberate injury. During this period the Ministry of Interior also ordered the use of water cannons despite the cold (-20c at times during this period). On 21 – 22 January three protestors were shot dead, but the Ministry of Interior denied that it had issued orders for the use of firearms.

**VLADISLAV TSILYTSKIY, a 23 year-old computer programmer from Kyiv, was detained by Berkut riot police officers on 20 January**

<sup>3</sup> see <http://euromaidansos.org/uk/node/73>



2014 at about 9.30pm. He was among a group of six to 11 protestors who were on the top of the colonnade above the entrance to Dinamo football stadium on Grushevskiy Street. They were all ordered to lie down on the roof and Vladislav Tsilytskyi and one other were the only protestors to be detained. They were beaten on the top of the colonnade and then dragged to the Berkut police lines where they were put in police vehicles. Disturbing footage filmed on 20 January shows three Berkut officers carrying out vicious and sustained beatings on at least two persons on top of the colonnade. Vladislav Tsilytskyi told Amnesty International that he had lost consciousness during the beating and was dragged from the colonnade and to the police vehicle by two Berkut officers. One of them dragged him by his lips; they then sprayed a gas canister onto his genitals causing great pain. He has received no information about progress on the investigation of his case.

## ABDUCTIONS

On 21 January two EuroMaydan activists, Yuriy Verbitskiy and Igor Lutsenko were abducted from a hospital where Yuriy Verbitskiy had sought treatment. Yuriy Verbitskiy was subsequently found dead in a forest. The following day another EuroMaydan participant, Dmitry Bulatov, disappeared and was found eight days later. It is still not entirely clear what had happened to him – who abducted him, where they held him, and what their objectives were – but Dmitry Bulatov alleged having been tortured in detention and demonstrated his injuries upon release to substantiate his claims. There have been no reports of any perpetrators identified in connection with his abduction and ill-treatment, and no reports of any progress of investigation and whether this case is being investigated at all.

## ABUSIVE USE OF FORCE

Medical volunteers working in first aid centres throughout the EuroMaydan demonstrations reported that in January they started to see a high number of eye injuries from misuse of rubber bullets and shrapnel injuries from abusive use of stun grenades. In an interview on 14 April 2014, Oleg Musiy, the current acting Minister of Health, who coordinated medical services during the protests told Amnesty International that from mid-January riot police had started to aim rubber bullets not at the legs, as required by police regulations, but at the faces of demonstrators: "They were aiming at faces. Fifty per cent of the injuries were to the head and half of those were eye injuries. I had the impression that they were deliberately aiming at the eyes. It was not for the purposes of intimidation, but in order to make people invalids." In an interview with Amnesty International on 12 March 2014, Olga Bogomolets who had worked as a doctor with the volunteer medical services at EuroMaydan, said that she was treating injuries from stun grenades that could only have been caused if the Berkut officers using them had deliberately waited before throwing them so that they exploded in mid-air causing maximum injuries. From January on there were a number of reports that riot police knowingly and deliberately targeted medical personnel.<sup>4</sup>

## CONCERNS ABOUT SLOW PROGRESS OF INVESTIGATIONS

Amnesty International has interviewed 20 individuals who were subjected to abusive use of force by police officers during the three months of the demonstrations in Kyiv in November 2013 – February 2014. These individuals and their lawyers are frustrated by the slow speed or apparent lack of investigation into their allegations, the failure of the authorities to identify the alleged perpetrators from among police officers, and poor communication from the Prosecutor General's Office. The two convictions that have been made so far in connection with the EuroMaydan events raise concerns about whether the sentences are adequate. In a letter dated 5 June the Prosecutor General's Office informed Amnesty International that the cases of these individuals were being investigated, but gave no further details.

There are indications that the Ukrainian authorities may be reluctant to conduct a full, effective and impartial investigation into the events for reasons of political expediency. The current need to deploy employees of the Ministry of Interior in fighting insurgents in the south east may lessen political will to investigate specific allegations and prosecute police officers for violations during EuroMaydan. On 5 May, the acting Head of the Presidential Administration, Sergei Pashinsky, expressed his gratitude to law enforcement officers, including former members of the now disbanded Berkut riot police force,<sup>5</sup> praising their heroism and bravery during recent "anti-terrorist" operations in the eastern part of the country. He stated that in view of the difficult situation that Berkut riot police officers had been placed in under the previous regime,

<sup>4</sup> see <http://maidantranslations.com/2014/02/14/attacks-of-the-berkut-ukrainian-riot-police-on-the-red-cross-station-and-medical-volunteers/>

<sup>5</sup> The Berkut riot police force was disbanded by the interim government after President Yanukovich's removal from office because of the human rights violations committed by its members during EuroMaydan.



only those officers found to be responsible for the killing and torture of protestors would be prosecuted. This signalled that other instances of abusive use of force could go unpunished, thus contributing to the persistent problem of impunity for ill-treatment by the police.

There has been some progress on a number of high profile cases: five top officials were accused of “exceeding authority or official powers” (Article 365 of the Criminal Code) in connection with the dispersal of the demonstration on the night of 29 – 30 November 2013. They include the then Head of Kyiv police, Deputy Head of Public Order, and the Head of Kyiv City Administration. All cases against them were closed as a result of the Amnesty Law on 21 February 2014, but on 26 February the law was repealed and the investigations opened again. Since 26 February the accusation has been changed to a lesser crime relating to the dispersal of a peaceful meeting. The investigation is ongoing.

Amnesty International is aware that the investigation is ongoing into the deaths by shooting, and for this reason lawyers representing the relatives of those killed have had limited access to the case files and are bound by confidentiality. On 20 May 2014, at a closed meeting with the relatives of those killed, the Deputy Prime Minister, Vitaly Yarema, informed them that suspects had been established in 46 cases and that three had been detained.

However, it is much less clear that investigations are actually ongoing into other cases of abusive use of force and torture and other ill-treatment. Victims and their lawyers report the following problems.

## **DELAYS IN OBTAINING FORENSIC MEDICAL DOCUMENTATION**

Forensic medical expertise is carried out by a government agency subordinate to the Ministry of Health. Many complainants have experienced unexplained lengthy delays in receiving forensic medical reports, which means that they cannot start court proceedings for compensation for their injuries and that the investigation of their complaints will be delayed.

**Boris Aseyev**, a 68 year old graphic designer from Kyiv, was shot three times in the right leg at 9am on 20 February 2014 on Institutska Street near the entrance to Kreshchatyk metro station. He has undergone three operations. A forensic medical examination was carried out on 25 February on the instigation of the General Prosecutor’s Office, but he only received the results on 26 May 2014.

**Hennadiy Cherevko**, one of the nine detained on Bankova Street on 1 December (see above), was subjected to beating when he was detained by Berkut officers on Bankova Street on 1 December 2013. He sustained injuries to one hand, and suffers from memory loss and headaches, which he believes are the direct result of the beating. He is currently being treated for his injuries in the United States. He has never received a copy of the forensic medical report of the examination that was carried out in December 2013.

## **LACK OF COMMUNICATION WITH VICTIMS AND THEIR LAWYERS BY THE INVESTIGATING AUTHORITIES**

Council of Europe standards require that victims receive information regarding the progress, follow-up and outcome of their complaints, so that they can defend their legitimate interests<sup>6</sup>. All the victims that Amnesty International has spoken to complain that they receive very little information about the progress of their complaints.

**Iryna Ryabchenyuk** lost the sight in one eye when she was struck in the face by a riot police officer as she was standing peacefully observing events on Institutska Street on 1 December 2013. She was interviewed in hospital by a prosecutor a few days after the event, and again in May 2014, but her lawyer has received no information about progress with the investigation and has not received answers to his queries to the General Prosecutor’s Office on her case. This lack of communication is reported in most other cases too, reinforcing concerns about the lack of progress in investigations.

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<sup>6</sup> Opinion of the Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police, 12 March 2009, CommDH(2009)4, <https://wcd.coe.int/ViewDoc.jsp?id=1417857>



**Vladislav Tsilytskyi**, who had been subjected to beating on 20 January 2014, was informed that he had been recognized as a victim in the context of the criminal investigation into his allegations in March 2014, but his lawyer has received no communication from the Prosecutor General's Office since then and told Amnesty International that he believed the case was at a standstill.

## LACK OF COORDINATION AND TRANSPARENCY

Lawyers representing complainants have complained to Amnesty International about the lack of clarity about the way the investigations are being organized by the Prosecutor General's Office. The Prosecutor General's Office has provided confusing and conflicting information which threatens public trust in the process. During the meeting with Amnesty International delegates on 12 March 2014, the Deputy Prosecutor General reported that all cases had been combined into one investigation and that "the whole staff" of the Investigation Department of the Prosecutor General's Office were working on the case. In its report, the UN Human Rights Mission give the information that there are two ongoing investigations, one into the shooting of demonstrators and one into the shooting of police officers. In a letter to Amnesty International dated 5 June, the Prosecutor General's Office referred to two criminal investigations that were ongoing, one into the shootings in February (which includes the investigation of complaints about ill-treatment during the dispersal of the demonstration on 29 – 30 November) and one into the torture and other ill-treatment on Bankova Street on 1 December.

## HARASSMENT OF COMPLAINANTS

Amnesty International received reports of harassment of complainants before the change in government in February 2014. Two victims told Amnesty International that they faced threats and intimidation from prosecutors during December 2013 to force them to give up their complaints.<sup>7</sup>

The sister of **Iryna Rabchenyuk** (see above) told Amnesty International that when prosecutors had come to the hospital to interview her about the ill-treatment in December they asked questions about her participation in the demonstrations and apparently tried to make her implicate herself in taking part in "mass disorder".

## ADEQUATE SENTENCING

In order to give the message that torture and other ill-treatment will not be tolerated states must ensure that the sentences which are handed out for such human rights violations are effective, proportionate and appropriate to the offence committed. The two sentences that have been handed out so far in connection with the EuroMaydan events cannot be considered adequate.

On 28 May 2014 two members of the Interior Ministry Troops (*Vnutrennye voiska*) were given suspended sentences of three and two years respectively for "exceeding authority or official powers" (Article 365 of the Criminal Code) for their ill-treatment of Mihaylo Gavrilyuk on 22 January 2014. Video footage of the event shows Mihaylo Gavrilyuk being forced to stand naked in sub-zero temperatures in front of a group of at least one hundred interior troops and riot police officers. Both Interior Ministry Troops and riot police officers can be seen actively humiliating him by forcing him to pose for photographs. He is then pushed naked into a bus.

Suspended sentences cannot be considered adequate for such a grave offence. Furthermore, by prosecuting officials for "exceeding authority or official powers" for actions which constituted deliberate inhuman and degrading treatment, the authorities are hiding the scale of the problem of torture and contributing to impunity.<sup>8</sup>

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<sup>7</sup> Amnesty International, *Ukraine: "EuroMaydan": Human rights violations during protests in Ukraine*, AI Index: EUR50/020/2013, <http://www.amnesty.org/en/library/asset/EUR50/020/2013/en/75c9fb6c-23a4-4b34-921d-94ba667ed378/EUR500202013en.pdf>, p.13

<sup>8</sup> Amnesty International has documented many past incidences of use of torture or other ill-treatment by police officers that are prosecuted under Article 365 which carries a range of penalties, from non-custodial to a sentence of three to 10 years depending on the gravity of the offence. These cases are not recorded as prosecutions for torture or other ill-treatment, and fall under the statute of limitations.



## CONCLUSIONS AND RECOMMENDATIONS

Amnesty International has documented many cases of torture and other ill-treatment in Ukraine over the past decade, and its research has demonstrated that under successive governments the Ukrainian authorities have failed to live up to their obligations to promptly, effectively and impartially investigate all such allegations and to bring the perpetrators to justice.<sup>9</sup> This failure has contributed to a culture of impunity for the police. Widespread frustration with the apparent impunity of law enforcement officers has fuelled public discontent in the past, and was one of the factors that drove members of the public onto the streets to take part in the EuroMaydan demonstrations in Kyiv and other cities. Only by investigating each and every complaint against the police relating to the EuroMaydan demonstrations can the Ukrainian authorities establish public confidence in the investigations and clearly demonstrate their commitment to fight police impunity.

Amnesty International urges the Ukrainian authorities:

- to live up to their international obligations and ensure that all allegations of the use of abusive and excessive force by members of police are investigated promptly, effectively and impartially;
- to communicate the relevant information to the individuals concerned and their lawyers;
- to investigate allegations of harassment of complainants and ensure that anyone found responsible faces appropriate criminal or disciplinary sanctions;
- to ensure better transparency and public accountability concerning the process and the progress of the investigations;
- to establish without delay an independent mechanism to investigate complaints against the police.

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<sup>9</sup> See *Ukraine: No Evidence of a Crime: Paying the price for police impunity in Ukraine*, (AI Index EUR 50/009/2011), <http://www.amnesty.org/en/library/info/EUR50/009/2011>.