

**UKRAINE: A YEAR
AFTER EUROMAYDAN,
JUSTICE DELAYED,
JUSTICE DENIED**

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in 2015 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2015

Index: EUR 50/001/2015
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Amnesty International is a global movement of more than 7 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY
INTERNATIONAL**



CONTENTS

Introduction	4
Methodology.....	7
Background to the protests	8
The cases.....	10
The first EuroMaydan beatings.....	10
Bankova Street.....	10
Hrushevskoho Street	12
Flawed and delayed investigations	14
Lack of coordination	14
Lack of capacity	15
Failure to secure key evidence	16
Refusal of officials to cooperate with investigations.....	16
Conclusion	18
Recommendations	19

INTRODUCTION

As the victims and relatives of those killed and injured during the EuroMaydan protests in Ukraine prepare to mark the first anniversary of their bloody conclusion those responsible for these human rights violations continue to enjoy almost complete impunity for their actions.

What started in November 2013 as a peaceful protest escalated into a series of violent and often deadly confrontations between protesters and law enforcement officials. According to the Ministry of Health, by the end of the EuroMaydan protests in February 2014, 106 people had been killed or died in connection with the events in EuroMaydan.¹ The Prosecutor General's Office reported in November 2014 that during EuroMaydan events at least 77 individuals had died in Kyiv, almost of them killed with firearms.² The NGO EuroMaydan SOS believes that 81 demonstrators died during the protests (including four in protests outside Kyiv) and that a further 14 died of causes directly related to the protests (including two outside Kyiv), while 13 police officers died at the scene of the EuroMaydan protests. A further four police officers subsequently died as a result of injuries sustained during the demonstrations.³ There are no official figures for those injured, but EuroMaydan SOS estimates that at least 1,000 people were seriously injured.

Since the ousting of President Viktor Yanukovich, successive governments have repeatedly stated their resolve to ensure that the EuroMaydan events are effectively investigated and that law enforcement officials responsible for human rights violations are brought to justice.⁴

¹ Press Service of the Ministry of Healthcare of Ukraine, "Informatsiya pro postrazhdalikh pid chas masovykh aktsiy u Kyevi ta rehionakh Ukrayiny stanom na 06.00 hod. 14 kvitnia 2014 roku", 14.04.2014, available at http://www.moz.gov.ua/ua/portal/pre_20140414_b.html.

² Oksana Kotliarenko, "GPU rasskazala, skolko liudei pogiblo na Maidane", *Komsomolskaya Pravda v Ukraine*, 19 November 2014, available at <http://kp.ua/politics/478935-hpu-rasskazala-skolko-liudei-pohyblo-na-maidane>.

³ Euromaidan SOS, List of individuals killed during EuroMaydan, available at <http://euromaidansos.org/uk/node/73>.

⁴ The new authorities in Kyiv have also given assurances to Ukraine's international partners that the EuroMaydan events would be effectively investigated and the perpetrators brought to justice in fair trials. On 9 April 2014 an International Advisory Panel was established, under an initiative of the Secretary General of the Council of Europe. The Panel's mandate was to establish whether these investigations meet all the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights. A final report on the progress of investigations was scheduled to be delivered by the Panel in early 2015, but had not been published at the time of writing. During 2014 the Panel faced repeated delays and a failure by some of the relevant Ukrainian agencies to provide it with information requested and thus to keep it abreast of the progress of investigations and of specific actions taken. See *Statement of the International Advisory Panel on the occasion of the first anniversary of the events at Maidan of 30 November 2013*, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168>

On 12 November 2014, President Petro Poroshenko criticized the delays in the investigations in a meeting with the Interior Minister Arsen Avakov and Prosecutor General Vitaliy Yarema and declared: “Society should know that the authorities are acting effectively, and that those who committed a crime are, or will be, facing court”.⁵ For the overwhelming majority of victims of human rights violations during the EuroMaydan protests these promises are in danger of ringing hollow.

In response to the public outcry that followed the first incidence of the use of excessive force against peaceful protesters on 30 November 2013, three senior officials were sacked but the criminal proceedings against them were closed under the first amnesty law passed in December 2013. No further investigation or sanction was initiated during the three months of protest.⁶

By the end of 2014, a handful of arrests had been reported by the authorities in connection with the EuroMaydan events. In particular, the authorities reported some progress in the investigations into the killings during the final days of the protest. The authorities claim that most of the unarmed people who were shot were killed by masked gunmen whom they have identified as former members of the Berkut (riot police, since disbanded). The head of the Security Service of Ukraine (Sluzhba bezpeky Ukrayiny, SBU), Valentyn Nalyvaichenko, stated in November that 16 former Berkut officers and five senior SBU officials had been arrested in connection with the killings of protesters in Kyiv. In fact, he was referring to arrests back in March and April 2014.⁷ Only three of those arrested were remanded, one of whom was later released under travel restrictions and absconded.⁸ The case against the two remaining former Berkut officers has been submitted to the courts for trial.

To date, only one case, relating to ill-treatment, has resulted in a conviction. Two law enforcement officials, both low-ranking Interior Ministry Troops officers, were given suspended sentences of three and two years for “exceeding authority or official powers” (Article 365 of the Criminal Code) on 28 May 2014, for their ill-treatment of Mykhaylo

[00c97cd](#).

⁵ TSN, “V militsii vyyasnili, kak imenno ubili Nigoyana, Zhiznevskogo and Senika”, 3 February 2014, available at <http://ru.tsn.ua/politika/v-miliciji-vyyasnili-kak-imenno-ubili-nigoyana-zhiznevskogo-i-senika-347080.html>.

⁶ The authorities’ response to protesters during the same period stands in stark contrast; administrative and criminal proceedings were promptly instigated against protesters accused by the police of violence, although these too were terminated following the three successive amnesty laws passed during EuroMaydan. The last one, adopted in January 2014, superseded the first three and currently remains in force. It given a long list of articles from the Criminal Code of Ukraine covered by the amnesty, but these do not include articles that would be applicable to the killing, torture and ill-treatment of protesters by law enforcement officers.

⁷ Prestupnosti.net, “Glava SBU sygral na publiku i zavysil zaslugi svoego vedomstva v rozyske vinovnikov rasstrelov na Maydane”, 18 November 2014, available at <https://news.pn/ru/criminal/118787>.

⁸ Following this, the Prosecutor General’s Office opened criminal proceedings against the judge for passing a knowingly unlawful decision.

Havryliuk on 22 January 2014. Video footage shows Mykhaylo Havryliuk being forced to stand naked in sub-zero temperatures in front of dozens of officers from both Interior Ministry Troops and riot police. Many officers can be seen actively humiliating him by forcing him to pose for photographs before he is pushed into a bus. However, no one else has been identified and prosecuted in relation to this incident. Amnesty International is not aware of a single other indictment for ill-treatment and torture despite the high number and wealth of evidence of such abuses.

The sheer volume of incidents, the complexity of the investigations into the alleged criminal responsibility of the former political leadership and the murky circumstances of many of the shootings of protestors and police officers alike are mitigating factors. It is also true that the number of investigation officials assigned to investigating EuroMaydan abuses has been substantially increased over the past year. However, the fact remains that progress in delivering justice to victims remains painfully slow, particularly for victims of ill-treatment and torture, the facts and individual liability for which ought, in many cases, to be easy to establish with diligent investigation.

Many of the reasons for these delays reflect a long-standing culture of impunity for police abuses in Ukraine and entrenched shortcomings in the systems in place for investigating and prosecuting them. Police abuses significantly fuelled the EuroMaydan protests. Calls to end them, and the impunity law enforcement officers have enjoyed, were foremost amongst the demands of demonstrators. The current government must demonstrate its commitment to meeting these demands and fulfilling its obligation to ensure that all human rights violations by law enforcement officials are effectively investigated and prosecuted. In the context of the wide-ranging reforms currently being put forward by the government, priority should be given to strengthening the independence and effectiveness of agencies responsible for such investigations.

METHODOLOGY

In December 2014 and January 2015 Amnesty International reviewed the progress in the cases of 11 victims of unlawful use of force by the police during the EuroMaydan protests the organisation has been monitoring since the time when the relevant incidents took place and has periodically requested updates on progress from the authorities.⁹ Amnesty International researchers met with all the victims, who cases are described below, and with some of their lawyers. These cases all relate to injuries, often serious, sustained as a result of police ill-treatment, in incidents prior to the final days of the protest. Amnesty International also interviewed a senior investigator from the Prosecutor General's Office and civil society and human rights activists who actively documented violations during the protests and have sought to support several of the victims since. All expressed deep frustration at the slow pace of the investigations and the lack of information about progress provided by the authorities.

⁹ Amnesty International has been raising concern about unlawful use of force by police in EuroMaydan since the first abuses took place. In December, the organization addressed the Prosecutor General and other senior officials in Ukraine regarding the "Bankova prisoners". It wrote to the Prosecutor General's Office in February and March 2014 regarding the cases raised in this report and addressed its concerns to the President of Ukraine in June 2014 which were referred to the Prosecutor General's Office, and received replies from the Prosecutor General's Office in June, August, September, on each occasion stating that the investigations were ongoing. Amnesty International delegates met with senior members of the Prosecutor General's Office in March and September 2014.

BACKGROUND TO THE PROTESTS

Between 21 November 2013 and 22 February 2014, hundreds of thousands of people took part in protests in Maydan Nezalezhnosti (Independence Square), in central Kyiv, and other Ukrainian cities. The protests were triggered by a government announcement that it was stopping preparations for an Association Agreement with the European Union (EU) just days before the Agreement was due to be signed.

Protesters erected tents in Independence Square as part of an initially peaceful protest, later dubbed the “EuroMaydan” protest. On the night of 29/30 November 2013 police violently dispersed a group of some 200 protesters, mostly students. The following day thousands of people came to the Square and the protest began to gain momentum. What had started as a protest against the government’s policy with regard to the EU evolved into a protest against the government itself.

Pockets of violence erupted in the ensuing protests, with protesters occupying Independence Square and several buildings in the vicinity, and skirmishes breaking out occasionally between a militant minority – sometimes intent on breaking police lines and reaching the vicinity of the parliament and the Presidential Administration buildings – and police. The violence repeatedly peaked when police attempted to remove protesters from central Kyiv altogether, with demonstrators erecting barricades, and an organised minority burning car tires, throwing stones and other missiles, and using batons, baseball bats, etc., in direct confrontation with the police. Some were armed with hunting weapons and other firearms. The peak of the violence was on 18-20 February 2014.

While much of the violence remains poorly explained to this day, including the shooting of both police officers and protesters by sniper fire in the final days of the protest, there is no question that law enforcement officers repeatedly used excessive and arbitrary force against peaceful protesters in the months and days leading up to its bloody conclusion.

On 1 December 2013 there was a violent confrontation between a group of protesters and the Berkut on Bankova Street near the Presidential Administration building. On 20 January 2014, following parliament’s approval of a number of repressive laws, a group of protesters marched on parliament and there was a violent confrontation between protesters and the Berkut on Hrushevskoho Street. These clashes continued sporadically for the next month.

The police response to the protests was increasingly heavy-handed and violent. The first protester to lose his life was 21-year-old Serhiy Nihoyan. He was killed on 22 January 2014 on Hrushevskogo Street, the day after Ukraine’s new laws restricting freedom of assembly came into force. He was shot four times, including in the head and the neck; the Interior Ministry denied that live ammunition was used on protesters that day by forces under its

command.¹⁰

On 18 February 2014, the violence escalated sharply. Following isolated clashes between some protesters and police in the morning, the authorities undertook the biggest ever attempt to clear by force the streets of central Kyiv of protesters, and skirmishes escalated into mass clashes. As many as 25 protesters were shot dead that day.¹¹ The Trade Unions' building that had been occupied by the protesters and used as a makeshift hospital burnt down during a suspected but unconfirmed arson attack, and an unknown number of wounded were burned to death.

The violence continued on 19 and 20 February, with further deaths and thousands of injuries. On 21 February, an agreement brokered by the German and Polish Foreign Ministers was signed by President Viktor Yanukovich and members of the opposition, agreeing an early election amongst other measures, but on 22 February, Viktor Yanukovich secretly left the country which led to his removal from office by the parliament. On 22 February 2014, Verkhovna Rada appointed an acting president, and interim government, and called presidential elections for 25 May.

¹⁰ For more detail, see TSN, "V militsii viyasnili, kak imenno ubili Nigoyana, Zhiznevskogo and Senika", 3 February 2014, available at <http://ru.tsn.ua/politika/v-milicij-vvyasnili-kak-imenno-ubili-nigoyana-zhiznevskogo-i-senika-347080.html>.

¹¹ Amnesty International interview with former coordinator of medical volunteers in EuroMaydan Olha Bohomolets, March 2014.

THE CASES

The 11 cases documented below represent only a tiny sample of the numerous incidents of excessive or arbitrary use of force by law enforcement officers during the EuroMaydan protests. In almost all of them the victims were initially detained and questioned as suspects. Proceedings against them were dropped as a result of successive amnesty laws. Investigations into their own complaints have been painfully slow: indeed, only four have even been interviewed as victims of crimes. None have been informed of the progress in their case since filing their complaints.

THE FIRST EUROMAYDAN BEATINGS

On the night of 29-30 November during the violent dispersal of the then peaceful demonstration video footage shows police officers hitting unresisting protesters with batons and kicking them. In some cases the police can be seen to be pursuing men and women in order to hit them.¹²

Ihor Syrenko, aged 58, was one of those attacked on 30 November by Berkut officers, while he was singing the Ukrainian national anthem; he sustained numerous bruises. He was questioned by police on the street right after his arrest, but then did not go to any further questioning to which he was summoned during EuroMaydan fearing this would be used against him. On 1 December he paid for a forensic examination himself and attached it to his complaint which he submitted to the Prosecutor General's Office in person. He has had no information about the progress of the investigation by the Ukrainian authorities since then. In February 2014 he submitted an application to the European Court of Human Rights.

BANKOVA STREET

At least 50 Berkut officers and over a hundred of protesters were injured in Bankova Street during clashes between law enforcement officials and protesters, including a small number of violent protesters, on 1 December 2013. On that day, many thousands came to central Kyiv in protest at the violent dispersal of the small peaceful gathering on the previous night. The gathering remained overwhelmingly peaceful. However, a small group of protesters in the neighbouring Bankova Street (where the Presidential Administration is located) engaged in violence. Video footage shows a few protesters driving a road grader towards the police line and stopping in front of it.¹³ Some men in front of the generally peaceful crowd were

¹² For a more detailed description, see Amnesty International, *"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>.

¹³ Eg, see <https://www.youtube.com/watch?v=xWcBQU0u0w8>.

throwing stones at police officers, wielding heavy chains and sticks. The police charged the crowd a number of times, indiscriminately beating fleeing protesters. Some of those who fell or found themselves surrounded by police, were beaten with batons and kicked repeatedly despite putting up no resistance.¹⁴

Nine people were detained by Berkut officers following the clashes in Bankova and subsequently charged with “organizing mass disorder”, a crime that carries a maximum sentence of eight years. On 3 December, the nine appeared before a judge who promptly authorised their remand although they denied the charges and no evidence was presented in court – or in fact requested by the judge – that they had taken part in the violence themselves. All but one had to be taken to hospital as soon as their remand hearing ended. Several had already been in hospital following their arrest and prior to the remand hearing. Only on 6 December, following public indignation and complaints filed by their lawyers, these individuals – collectively known as the “Bankova prisoners” – were recognised as victims of ill-treatment by police, and criminal proceedings against unspecified Berkut officers were initiated. However, no Berkut officers were identified as suspects and the nine “Bankova prisoners” remained in custody until mid-December and some until early January, when the charges against them were dropped under a newly adopted amnesty law, which also extended to the officials who had used unlawful force against them.

Amnesty International has interviewed eight of the “Bankova prisoners”. Some of them confirmed that they were given forensic examinations shortly after they were detained and four were interviewed as victims between May and October 2014. At least two have submitted video evidence and more submitted photographic evidence of their torture or other ill-treatment to the investigating authorities. At the time of writing, none has been told of any progress in the investigation of their allegations of torture and other ill-treatment. The information below is based on interviews with them and their lawyers.

Yuriy Bolotov, aged 39, was beaten by Berkut officers and badly bruised. He underwent medical examination shortly afterwards, but has never been questioned by investigators in connection with his complaint.

Valeriy Garaguts, aged 45, was beaten by police as he was trying to bandage the head of another injured protester. His injuries were documented in hospital. He was questioned by investigation officials twice, in Kyiv and Dnipropetrovsk, shortly after his beating but both times, as suspect, not a victim of crime. He has not been interviewed since and has not received the results of his forensic examination.

Vladyslav Zagorovko, aged 38, sustained broken ribs and a detached retina as a result of beatings by police. He was interviewed once by investigators regarding his complaint, in summer 2014, and was informed that the forensic experts had received medical reports on his injuries from four hospitals.

Serhiy Nuzhnenko, aged 31, suffered from concussion and sustained numerous bruises as a

¹⁴ For instance, see <https://www.youtube.com/watch?v=4hJeGFuV7yE>, particularly the episodes starting at min. 1:35 and min. 4:20.

result of beatings by police. He was examined by a forensic expert four days later, but hasn't been informed of the results. He has submitted video footage of his beating to the authorities but has still not been questioned in connection with his complaint.

Oleksandr Ostaschenko, aged 32, was forced to stand on his knees and beaten by batons. He suffered from concussion, bruising and broken fingers, as documented in hospital. He named an eyewitness of his beating, and there is widely available video footage of his beating,¹⁵ but investigators have never interviewed him.

Yehor Previr, aged 27, was made to lie on the ground for two hours in freezing temperatures in front of the Presidential Administration building while being severely beaten. He was questioned by an investigation official as suspect and medically examined at the hospital shortly after the event, but never since as victim.

Gennadiy Cherevko, aged 41, was beaten by a passing Berkut officer as he was trying to leave the scene where the violence had started. His right arm was broken and his body and head were badly bruised. He was medically examined and questioned as a suspect by an investigator in hospital, but has not heard from the investigating authorities since. He submitted a request for information in May 2014, and received a reply merely stating that his case was being investigated.

Iryna Rabchenyuk, aged 51, also received her injuries at the hands of the police in Bankova, but was not among those arrested on the day. She was hit with a baton in the face by a passing Berkut officer. Her skull was fractured and she lost the sight in one eye. She was watching the protests from the nearby Institutska Street when she was assaulted. Although she sought medical help after the incident, and there are medical records to that effect, she has still not been referred to an official forensic medical expert.¹⁶ She is the only one of those Amnesty International talked to who was interviewed as victim again, which she was ten months later, in October 2014, but she is also unaware of any progress in the investigation of her case. Her lawyer's repeated requests for information about the progress in her case have received no response.

HRUSHEVSKOHO STREET

On 20 January 2014, Hrushevskoho Street was the scene of escalating violence in the context of the EuroMaydan protests. The demonstrators threw fireworks, stones and Molotov cocktails (firebombs) at police, who responded with excessive force, including by using stun grenades and rubber bullets in ways intended to cause maximum injury, for instance by timing grenade explosions so that shrapnel would cause face injuries.¹⁷

Vladyslav Tsilytskiy, aged 23, was among those who climbed up on the roof of the colonnade

¹⁵ See <https://www.youtube.com/watch?v=AYtzxyqnOA>.

¹⁶ Amnesty International interview with Iryna Rabchenyuk in December 2014.

¹⁷ Amnesty International's interviews with medical volunteers who were attending to the wounded during EuroMaydan, March 2014.

of the neighbouring Dinamo football stadium on 20 January. He was ordered by Berkut officers to lie down, beaten and then dragged down to police vehicles stationed behind the police lines. There is video footage on the internet of Vladyslav Tsilytskyi being beaten on top of the colonnade and then dragged unconscious by Berkut officers.¹⁸ He told Amnesty International that before he lost consciousness, a police officer dragged him by the lips and sprayed tear gas on his genitals, causing extreme pain. He lodged a complaint about his ill-treatment, but he has never been questioned or offered any forensic examination. At the time of writing, he had received no information about the investigation into his complaint.

Seventeen-year-old Mykhaylo Nyskohuz was filming events Hrushevskogo Street on January 20 when he was detained by police. Along with some others, he was forced to walk down a corridor of officers and beaten from both sides. Some police officers then dragged him to a nearby park and stripped him of his outer clothing in -20oc temperatures while continuing to beat him, and forced him to sing patriotic songs. He sustained a broken arm and fingers, head injuries, bruising and a knife wound to his buttocks. Since the events he has been interviewed only once, in May 2014. At the time of writing, he had received no information about the progress of any investigation into his case.

¹⁸ See <https://www.youtube.com/watch?v=VOTqtY7S4EM>.

FLAWED AND DELAYED INVESTIGATIONS

The promises made by the Ukrainian authorities to effectively investigate all human rights violations and abuses committed during the EuroMaydan protests and bring those responsible for human rights violations to justice were welcome. However, a number of factors have contributed to delays in implementing this promise that have effectively denied victims and their families the right to justice.

LACK OF COORDINATION

The official agencies in Ukraine responsible for the investigations are: the Prosecutor General's Office, the Interior Ministry and the Security Service of Ukraine (SBU). All three bodies have been under increasing pressure to demonstrate progress in dealing with the legacy of human rights violations during the EuroMaydan protests. However, their efforts in the months following the violations appear to have been hampered by a lack of effective coordination and some confusion caused by overlapping jurisdiction and competing competencies.

The Prosecutor General's Office is generally responsible for investigating the more serious crimes, in virtue of which it is playing a leading role in investigating EuroMaydan abuses. However, there are certain categories of serious crime – particularly those to do with issues of state security – the investigation of which is the preserve of the security service (SBU). The SBU is therefore leading on investigations into treason allegations against members of the former political leadership and senior officials.

The Interior Ministry (the police) for its part, generally speaking, has jurisdiction over the investigation of lesser crimes as well as certain investigative functions in respect of crimes investigated by members of the Prosecutor's Office such as securing the crime scene and the collection of initial evidence, including witness statements (doznanie).¹⁹ Prosecutors Amnesty International spoke to lamented the frequent lack of cooperation on the part of the police in respect of allegations against their own members. The Prosecutor General's Office relies entirely on the Ministry of Interior and the SBU for operational support (operativnoe soprovozhdenie) of the investigative activities – functions which require the authority and capacity to engage in covert and overt intelligence-gathering, searches and apprehension and delivery of key suspects for questioning. These activities, in the words of a senior member of the Prosecutor General's Office, are also mired in lack of cooperation, resistance and

¹⁹ Criminal Procedure Code of Ukraine, Articles 101 – 109.

obstruction from the other two law enforcement agencies.²⁰

In December 2014, in apparent recognition of the lack of progress in investigations, a Special Investigative Directorate (Upravlinnya spetsial'nykh rozsliduvan') was set up within the Prosecutor General's Office. It has some 50 members, mostly experienced investigators, including a number from the Interior Ministry and SBU. The investigators are working in two teams: one dealing with the EuroMaydan events and the other with the alleged abuse of authority by the previous political leadership of Ukraine. There is also an analytical unit tasked with collating, coordinating and structuring the input from the investigating teams. Its brief is also to facilitate inter-agency coordination of the investigations. It is too early to assess fully whether the Directorate will result in more prompt and thorough investigations than those undertaken to date. However, there are concerns that its effectiveness will depend on the willingness of the other two agencies, the SBU and the Interior Ministry, to cooperate; their past record of cooperation is at best mixed.

LACK OF CAPACITY

The criminal justice system has suffered from a lack of capacity to undertake the necessary investigation into the EuroMaydan events. The newly-appointed head of the Special Investigative Directorate, Serhiy Horbatyuk, told Amnesty International, "Ukraine has never dealt with an investigation on this scale".²¹

Investigations to date have suffered from a lack of investigators with the appropriate skills and experience to process the volume of material for a comprehensive investigation of more than 100 killings and hundreds of other victims of human rights violations by law enforcement officers. Investigators have claimed they have been inundated with paperwork and every request to another government agency has required yet more paperwork.

All law enforcement agencies working on EuroMaydan-related investigations are required to send their official requests for investigative actions – such as search warrants, seizure of property, identification of ownership, etc. – to Pecherskiy District Court in Kyiv, which is the only district court in Ukraine with territorial jurisdiction over the cases pertaining to EuroMaydan. The court lacks the resources to handle such a large volume of requests, leading to delays.²²

Investigations have also been seriously hampered by delays resulting from a lack of adequate forensic expertise. Amnesty International has received reports that understaffing and outdated equipment were key factors hindering the processing of the large number of requests made by investigators. For example, analysis of the large amount of video and photographic evidence from the EuroMaydan events is being delayed by the shortage of

²⁰ Serhiy Horbatyuk in an interview with Amnesty International on 17 January 2015.

²¹ Serhiy Horbatyuk in an interview with Amnesty International on 17 January 2015.

²² Ibid.

relevant specialists.²³

FAILURE TO SECURE KEY EVIDENCE

Much of the material evidence that would have helped the investigation of the killings was lost during the EuroMaydan events and in the following months. This failure to secure key evidence was exacerbated by the fact that investigations did not start immediately. Amnesty International is not aware of any effective efforts to secure the site for the investigation in the weeks that followed the end of the protests. In fact, for months afterwards, tents and barricades erected by the demonstrators in Independence Square, remained in place, many of them occupied by former protesters. The site itself became a “living memorial” and material evidence was irretrievably lost or contaminated.

Members of the investigating authorities told Amnesty International that over 90% of crucial documentary evidence – such as maps, documents relating to the deployment of police and other forces and the issuing of weapons to law enforcement officials – were intentionally destroyed in the immediate aftermath of the EuroMaydan events by officials who were seeking to evade responsibility for their actions. Amnesty International is not in a position to verify such claims. However, much important evidence could and should have been obtained by promptly interviewing victims and witnesses of police abuses. As the experience of the victims outlined earlier shows, investigating agencies undertook minimal, if any, efforts to gather victims’ testimony.

REFUSAL OF OFFICIALS TO COOPERATE WITH INVESTIGATIONS

Difficulties in identifying suspects and interrogating witnesses from among members of the law enforcement agencies have persisted.

Members of the Berkut were regarded by the demonstrators as the principle perpetrators of the human rights violations committed against peaceful protesters. The force was disbanded soon after President Yanukovich’s departure and many Berkut officers fled to Russia and Russian-occupied Crimea.²⁴ This was repeatedly cited by the new Ukrainian authorities as one of the principal obstacles to criminal prosecution of the culprits, even though Berkut comprised only a minority of the forces deployed to police the protests. However, on top of this objective difficulty, investigators have also faced resistance from within the system and the refusal of law enforcement agencies to co-operate with the investigation.

Investigators from the Prosecutor’s Office have faced obstacles in questioning law enforcement officers summonsed as witnesses: officers either fail to respond to the summons or state that they have no recollection of the events. Although witnesses can be compelled to attend questioning, investigators from the Prosecutor General’s Office rely on the Interior Ministry or the SBU to enforce such summonses. In practice, according to a senior investigation official interviewed by Amnesty International, requests to deliver key witnesses

²³ Ibid.

²⁴ Lenta.ru, “Byvshie sotrudniki ukrainskogo “Berkuta” prinali prisiagu MVD Rossii”, 30 May 2014, available at <http://lenta.ru/news/2014/05/30/berkut/>.

from among law enforcement officials for questioning are often ignored by these agencies on the grounds that the official in question is on holiday or has been posted to eastern Ukraine with forces fighting pro-Russian separatists.²⁵

²⁵ Serhiy Horbatyuk in an interview with Amnesty International on 17 January 2015.

CONCLUSION

One year one after the ending of the protest in EuroMaydan, justice for victims of police abuses remains elusive. The people whose cases are highlighted in this document have received little or no information about the progress of investigation into their cases. Some have not even been approached by the investigating authorities for their testimonies, and in several cases medical forensic evidence of their injuries is insufficient or non-existent and may no longer be available with the passage of so much time.

These are only a handful of cases, but they are no different from hundreds of others. Hundreds and possibly thousands had suffered police abuse during EuroMaydan and were hoping for justice when it was over. The victims do not know when, if at all, those responsible for the crimes committed against them during the EuroMaydan protests will be identified and held to account. This is not only prolonging their distress. It prevents them from claiming compensation. It is also denying them and the Ukrainian society at large the truth about the violence perpetrated during the protests and risks perpetuating under a new government many of the deep flaws in the criminal justice system that flourished under the old.

The multiple failures of the authorities at every level have resulted in the treatment of victims which falls far short of international standards. Amnesty International calls on the Ukrainian government to take swift and decisive action to ensure the right to justice and to restore confidence in the justice system and the rule of law in Ukraine.

The shortfalls and failures of the first year of post-EuroMaydan investigations has exposed once again the systemic failures of the existing system, its inability to deliver prompt, effective and impartial investigation into abuses by members of the police and other law enforcement agencies. Resistance from within the system and the apparent conflicts of interest at the level of the agencies concerned, lack of resources and adequate expertise, and the competing jurisdictions and competencies of at least three agencies with investigative functions, demonstrate the long-standing structural problems that underpin impunity.

To this end, the Ukrainian authorities should take the necessary legislative, policy and practical steps to create an effective mechanism for the investigation of such abuses, in line with the key criteria of independence and impartiality, thoroughness, promptness, competence, and victim involvement and public scrutiny.²⁶

²⁶ Criteria for an effective investigation as set out by the Council of Europe guidelines. For more information see Eric Svanidze, *Effective Investigation of Ill-Treatment. Guidelines on European Standards*, Directorate General of Human Rights and Legal Affairs, Council of Europe, 2009, available at <http://www.coe.int/t/dgi/hr-natimplement/publi/materials/1121.pdf>.

RECOMMENDATIONS

Amnesty International is calling on the Ukrainian authorities to:

Fulfil Ukraine's international obligations and conduct an adequate, thorough, impartial, independent and prompt investigation into all instances of unlawful use of force by law enforcement officers during the EuroMaydan protests;

Provide a regular, timely and substantive update on the progress of the ongoing investigations to the victims and their lawyers, and ensure that the outcome of any investigation is open to public scrutiny in order to restore public confidence in the rule of law and in those agencies responsible for upholding it;

Ensure that all victims of unlawful use of force by law enforcement officials are provided with effective reparation from the state, including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation where necessary, the truth about what happened, as well as effective guarantees of non-repetition;

Take the necessary legislative, policy and practical steps to promptly set up an effective mechanism for the investigation of abuses by members of police and other law enforcement agencies, in line with the key criteria of independence and impartiality, thoroughness, promptness, competence, and victim involvement and public scrutiny. And in the interim:

Streamline inter-agency coordination and ensure cooperation between the agencies involved in investigation of abuses committed during EuroMaydan protests;

Provide additional resources and expertise necessary for the ongoing investigation.

Amnesty International is calling on Ukraine's international partners to:

Provide technical expert and other assistance to the Ukrainian investigating authorities to facilitate prompt, impartial, thorough and effective investigation into all instances of unlawful use of force by law enforcement officers during the EuroMaydan protests;

At any appropriate opportunity in multilateral and bilateral fora, raise the need to ensure prompt, impartial, thorough and effective investigation into all instances of unlawful use of force by law enforcement officers during the EuroMaydan protests.

