



# Detention of Migrants in UKRAINE

In Ukraine ECRE works with 5 NGO partners to monitor places of detention for migrants: Assistance (Crimea), Neeka (Zakarpattya), Donetsk Foundation for Social Protection and Mercy, Human Rights Have no Borders (Lviv and Chernivtsi) and the Vinnitsya Human Rights Group (VHRG).

During the project NGO monitors visited detention facilities for migrants including “specially equipped premises” in the Eastern, Central, Western regions of Ukraine and the Autonomous Republic of Crimea.

Some NGOs had unimpeded access to detained migrants while others were given access only if they had barristers’ certificates and knew the exact names of the detainees. For example, our NGO monitors in Donetsk were asked to get specific permission in advance to speak with a known individual and could not make any unannounced visits.

At the same time the Ministry of Interior of Ukraine cancelled its provision for mobile monitoring groups that had been mandated to conduct regular visits to Ministry of Interior detention facilities. In the past these groups enjoyed excellent co-operation with the law enforcement officials and could carry out unannounced visits to all detention facilities. For example, VHRG and HRHNB regularly monitored detention facilities as members of these mobile monitoring groups.

Although physical conditions of detention of migrants in Ukraine have improved in the centres newly built with EU assistance there are still several issues of concern and recommendations:

- New legislative provisions should stipulate longer time limits for appealing against court decisions (on detention, extradition, refusal to grant refugee status, etc.)
- It is important that detainees have access to the lawyers or NGO representatives, so their interests are effectively represented.
- Those, whose applications for refugee status are under consideration in Ukraine should be immediately released from detention;
- Asylum seeking minors should never be detained, even in institutions that are not officially called “detention facilities”, but are de facto precisely that.
- The EU is encouraged to further contribute to improving physical detention conditions of migrants in Ukraine by providing assistance to the Ukrainian government in refurbishing detention facilities. However, it should also promote best practice in other areas affecting detainees, such as access to legal and social protection.

While most holding facilities for foreign citizens display information on the asylum procedure (provided by UNHCR, ECRE and other agencies), detainees should have their rights and obligations explained to them by law enforcement officials, particularly their right to appeal. The Ukrainian authorities should provide specialised training for border guard staff and MOI officials working with

migrants. This should cover the incorporation of principles of international human rights law in practical training and should focus on interpersonal communication and acquiring at least a basic knowledge of the different cultures and languages of the detainees.<sup>1</sup>

### Case Study: Detention conditions for people detained pending extradition in SIZO No. 13, Kiev

Cells are 6 x 12 m and 6 x 5 m and hold 38 and 12 beds respectively. There are often twice as many detainees in a cell as there are beds. There are no chairs. There is a table bolted to the floor, and a few benches. There is a television, fridge and radio. There are no newspapers or books but they can be obtained on request. The toilet is not separated from the cell but the detainees have screened it off. There is no shower. Detainees use a hose from the sink in the toilet and wash there. Detainees are allowed one proper shower a week. Cells are not properly ventilated. Mattresses and bed linen are not provided but are brought in by relatives. There is little natural light in the cell - a light bulb burns 24 hours a day and detainees are not able to turn it off. Detainees are allowed one hour exercise per day in an inside courtyard, where they can play football or work out on the horizontal bars. The food provided to detainees is not varied and of very poor quality. Laundry is collected once a week. Mobile phones are not allowed, but detainees use them although they are confiscated if found by the prison administration.

***The maximum length of detention in Ukraine is 6 months. The maximum possible length of detention under the EU Returns Directive is 18 months. The Ukrainian government should not be influenced by the EU to increase the length of immigration detention. Ukraine should be encouraged to refrain from holding migrants in custody for longer than absolutely necessary.***

## Detention Pending Extradition

The main problems occur in SIZOs (investigation and pre-trial detention facilities), where migrants can be kept for months pending extradition or return:

- Detention often exceeds the legal time limit (72 hours) without a court order;
- Some people are detained for up to a year in SIZOs pending extradition;
- Detention procedures are often violated (in searches, identification procedures, interviews with MOI and Security Services without defense lawyer present);
- Detainees have insufficient access to legal advice and difficulty contacting lawyers; (lack of telephones in SIZOs);
- Detainees have difficulty lodging appeals about conditions for fear of reprisals from the detention facilities' staff and further deterioration of treatment;
- Persons who cannot be extradited often remain in detention for lengthy periods of time.

To properly monitor detention facilities and investigate allegations of ill-treatment, the Ukrainian government should guarantee NGOs access to all facilities. In order to be effective and independent, such visits should be both frequent and unannounced. NGO staff members should have access to custody records and be able to interview detained persons confidentially.

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<sup>1</sup> Report to the Ukrainian Government on the visit to [Ukraine](#) carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Strasbourg, 19 May 2009. <http://www.cpt.coe.int/documents/ukr/2009-15-inf-eng.htm>