



ПОСТІЙНЕ ПРЕДСТАВНИЦТВО УКРАЇНИ  
ПРИ ВІДДІЛЕННІ ООН ТА ІНШИХ  
МІЖНАРОДНИХ ОРГАНІЗАЦІЯХ У  
ЖЕНЕВІ

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The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and referring to the Note Verbale AL.UKR 1/2018 of 8 June, 2018, has the honour to transmit herewith the information of the Government of Ukraine concerning protest actions in Kyiv from October 2017 to March 2018.

The Permanent Mission of Ukraine to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Enclosed: as stated, on 11 pages.

Geneva, July 08, 2018

**Office of the United Nations  
High Commissioner for Human Rights**

**Geneva**

CC: Working Group on Arbitrary Detentions;  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression;  
Special Rapporteur on the rights to freedom of peaceful assembly and of association;  
Special Rapporteur on the situation of human rights defenders;  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment



### **Information by the National Police of Ukraine**

The Directorate-General of the National Police in Kyiv (hereinafter referred to as the DGNP) within the framework of the pre-trial investigation of criminal proceedings on grounds of criminal offenses provided for in Articles 296 (hooliganism) and 345 (threat or violence against a law enforcement officer) of the Criminal Code of Ukraine (hereinafter referred to as the CC of Ukraine) has authorized carrying out the necessary law enforcement actions in the territory of the "tent camp" near the Verkhovna Rada of Ukraine by the decision of the Pechersk District Court of Kyiv.

According to the order of the Investigating Unit of the Pechersk Police Department of the DGNP, investigative actions were carried out on March 3, 2018 on the territory of the tent camp. As a result, ammunition was revealed and removed, and the information on this fact was entered into the Unified Register of the pre-trial investigations on grounds of the criminal offense provided for in Article 263 (Illegal handling of weapons, ammunition or explosives) of the CC of Ukraine.

During the above said law enforcement activities, persons who were present in the tent camp, provoked conflicts, bumping with the law enforcement officers, prevented the investigators from conducting investigative actions. When the law enforcers attempted to stop illegal actions, the protesters resisted using improvised items for bodily injuries. In this view, the police used against active protesters coercive measures (physical impact (force) and special means), provided for in Article 42 of the Law of Ukraine On National Police.

Altogether police officers arrested and brought 111 persons to the Pechersk and Shevchenko Police Departments of the DGNP.

We also inform that the DGNP conducted an official investigation on the facts of possible illegal actions of policemen during the events that took place on March 03, 2018, in accordance with the Instruction on the procedure for conducting official investigations in the internal affairs bodies of Ukraine, approved by the Order of the Ministry of Internal Affairs of May 12, 2013, No. 230. The materials of the investigation were sent to the Prosecutor's office in Kyiv to provide a legal assessment of the actions of the police officers.

In addition, regarding the events that took place on December 17, 2017, in Kyiv near the building of the International Center for Culture and Arts "October Palace" (Alley of Heroes of the Heavenly Hundred, 1) we inform about the following.

On December 17, 2017, a large-scale mass event "The March for Impeachment" followed by a rally on the Khreshchatyk street, organized by the representatives of the political party "Movement of the New Forces of Mikhail Saakashvili" took place in the central part of the capital as part of the all-Ukrainian action "Great Political Reform".

During the rally, the launch of the so-called "Headquarters of the All-Ukrainian Action "Great Political Reform" was announced from the scene on the premises of the "October Palace" and all the attendees were invited to move to the building.

Considering the fact that there was a significant number of citizens in the premises, as the New Year performances for children took place, law enforcement officers arrived at the building of the "October Palace" in order to prevent illegal actions and ensure the safety of life and health of citizens.

During the attempt by members of the March of Impeachment to enter the premises, there broke out a conflict between the latter and the law enforcement officers, as a result 42 law enforcers and 1 civilian being injured.

The same day, the Investigating Unit of the Pechersk Police Department of the DGNP in Kyiv entered the information to the Unified Register of the Pre-trial Investigations of the criminal offenses provided for in Articles 341 (Capture of the State or Public Buildings or Facilities), 342 (Resistance to a representative of the authorities, law enforcement officer) and 345 (Threat or violence against a law enforcement officer) of the CC of Ukraine.

### **Information from the Prosecutor General's Office of Ukraine**

Pechersk District Police Department of the DGNP in Kyiv is dealing with the criminal investigation №12017100060006441 of 17.12.2017 to prosecute the criminal offenses provided for in Part 2 of Article 345, Article 293 of the CC of Ukraine.

During the investigation of the above said criminal proceeding, it was established that on December 17, 2017, about 15:30, some persons that were not identified by pre-trial investigation, having been near the building of the «October Palace», located at the address: Kyiv, avenue of the Heroes of the Heavenly Hundred, 1, had attempted to break the cordon of the troops of the National Guard of Ukraine and to get inside the building. As a result, a short-lived bumping took place between the

activists and servicemen of the National Guard of Ukraine, who were conducting law and order activities in the central part of Kyiv.

In addition, at the same time, unidentified persons broke the glass of the front door of the building with an object, that resembled a wooden mace, were taking off the ammunition from the National Guard of Ukraine soldiers, inflicting them bodily injuries thereby, were sifting an unknown substance and throwing firecrackers.

In this criminal proceeding on February 5, 2018, a suspicion was reported to Lyubarets V.O. in committing a criminal offense stipulated in Article 293 of the CC of Ukraine. Proceedings of the pre-trial investigation into the commission by Lyubarets V.O. of the said criminal offense were allocated in a separate proceeding № 12018100060000528 and on March 13, 2018 the indictment against Lyubarets V.O. was sent to the Pechersk District Court of Kyiv for substantive consideration.

A pre-trial investigation in criminal proceedings №12017100060006441 of December 17, 2017 on the fact of a criminal offenses, stipulated by Part 2 of the Article 345, Article 293 of the CC of Ukraine is in progress.

In addition, the Investigating Unit of the Pechersk Police Department of the DGNP in Kyiv is dealing with the materials of the pre-trial investigation №12018100060000882 of February 27, 2018, on the basis of the criminal offenses provided for in Part 2 of Article 296, part 4 of Article 296, part 2 of Article 345 of the CC of Ukraine.

The pre-trial investigation has established that on February 27, 2018 around 12:10, a group of unknown persons, who were acting intentionally, caused bodily injuries to the law enforcement officers, in connection with performance of their duties while conducting law and order activities near the building of the Verkhovna Rada of Ukraine, at the following address: Kyiv, Mykhailo Hrushevsky street, 5.

Besides, on February 27, 2018, about 12:00, a group of unidentified persons, while being at the same address, grossly violating public order, for reasons of apparent disrespect for the society, accompanied by a particular insolence, using the beforehand made objects for bodily injuries, namely sticks and bunches, and with the help of other objects, committed acts of hooliganism.

In the indicated criminal proceeding, on March 3, 2018, M.Chudovsky was presented with a suspicion of a criminal offense, stipulated by Part 4 of Article 296 of the CC of Ukraine, namely hooliganism, a gross violation of public order on the

grounds of obvious disrespect for society, accompanied by special audacity or exceptional cynicism, committed with the use of another object specifically adapted or prepared in advance for bodily injury.

The indictment in the criminal proceedings №12018100060000882 on charges against M.Chudovsky in the commission of a criminal offense, stipulated by Part 4 of Article 296 of the CC of Ukraine, was directed for substantive consideration to the Pechersk District Court of Kyiv on May 5, 2018.

The materials of the criminal proceedings of April 25, 2018 regarding an unidentified person were allocated in a separate proceeding under № 12018100060001730.

Pre-trial investigation is in progress.

In addition, the Investigative Division of the Pechersk Main Department of the National Police in the city of Kyiv conducts a pre-trial investigation in the criminal proceedings №12018100060000928, of March 3, 2018, on the grounds of a criminal offense stipulated by Part 2 of the Article 345 of the Criminal Code of Ukraine.

The pre-trial investigation has established that on February 27, 2018, at about 13:10, a group of unidentified persons having acted intentionally, caused bodily harm to law enforcement officers in connection with the carrying out by those of their service duties related to protection of public order near the building of the Verkhovna Rada of Ukraine at the following address: Mykhailo Hrushevsky St., 5, Kyiv.

In the indicated criminal proceeding, molecular genetic expertise is conducted and the pre-trial investigation is in progress.

In addition, on March 3, 2018, the Prosecutor's Office of the city registered a criminal proceeding №42018100000000242 on the grounds of a criminal offense, stipulated by Part 3 of Article 171 of the CC of Ukraine, related to the fact of a possible interference with the lawful professional activities of the journalist S.Nuzhnenko, in relation to whom police officers used tear gas on the territory of the "tent camp" near the Verkhovna Rada of Ukraine on March 3, 2018.

In addition, the Prosecutor's Office of Kyiv registered a criminal investigation №42018100000000243 on the grounds of a criminal offense stipulated by Part 1 of Article 365 of the CC of Ukraine, on the fact of a possible excess of official powers

by police officers on the territory of the "tent camp" near the Verkhovna Rada of Ukraine on March 3, 2018, resulting in bodily harm to individual citizens.

Pre-trial investigations in those proceedings are carried out by the Investigative Division of the Main Directorate of the Security Service of Ukraine in the city of Kyiv and the Kyiv region, while the prosecutorial supervision in the form of a procedural guidance is provided by the Prosecutor's Office of the city of Kyiv.

Currently, pre-trial investigations are in progress, which will result in decisions to be taken in accordance with the requirements of the current legislation.

### **Information by the Ministry of Justice of Ukraine**

#### ***Regarding the legislation that regulates the right of individuals to hold peaceful gatherings, protest actions, as well as the legal grounds for limiting such rights***

In accordance with the Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, everyone has the right to freedom of peaceful assembly; the exercise of this right shall not be subject to any restrictions other than those prescribed by law and necessary in a democratic society for the sake of national or public security, for the prevention of disturbances or crimes, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The right to freedom of peaceful assembly is guaranteed by Article 39 of the Constitution of Ukraine, according to which citizens have the right to gather peacefully, without weapons, and hold meetings, rallies, campaigns and demonstrations, about which bodies of executive authority or local self-government are notified in advance.

Restrictions on the exercise of this right may be imposed by a court in accordance with the law and only in the interests of national security and public order aimed at preventing disturbances or crimes, to protect health or to protect the rights and freedoms of others.

According to paragraph 1, part 1 of the Article 92 of the Constitution of Ukraine, the rights and freedoms of a person and a citizen as well as guaranties thereof are defined exclusively by the laws.

Articles 280, 281 of the Code of Administrative Legal Proceedings of Ukraine define the peculiarities of proceedings in administrative cases on claims against bodies of

executive authority and local self-government regarding the imposition of restrictions on the exercise of the right to freedom of peaceful assembly and the removal of obstacles and the prohibition of interference with the exercise of the right to freedom of peaceful assembly.

The Draft Law of Ukraine On Guarantees of Freedom of Peaceful Assembly (reference № 3587 of December 7, 2015) and the Draft Law of Ukraine On Guarantees of Freedom of Peaceful Assembly in Ukraine (reference № 3587-1 of December 11, 2015) have been registered in the Verkhovna Rada of Ukraine. They propose to define the rights and responsibilities of the organizers and participants of peaceful gatherings, the powers and responsibilities of the state bodies and local self-government bodies in legal relations concerning the organization and holding of peaceful gatherings, to establish clear and exclusive grounds and methods for limiting freedom of peaceful assembly as well as regulate monitoring and mediation procedures during peaceful gatherings.

The decision by the Constitutional Court of Ukraine of September 8, 2016 № 6-пн/2016, declared provisions of some normative legal acts that regulated the need for early warning of the relevant authorities on holding peaceful gatherings, public religious services, religious practices, ceremonies and processions, as unconstitutional. With this decision, the Constitutional Court has determined that informing of the relevant authorities in advance is sufficient to hold peaceful gatherings and other public meetings.

### ***Regarding the legal grounds for the detention of persons and the scope of search***

According to the Article 1 of the Criminal Procedure Code of Ukraine (hereinafter referred to as the CPC), the procedure for criminal proceedings on the territory of Ukraine is determined only by the criminal procedural law of Ukraine.

The grounds for the detention of persons are determined by Articles 207, 208 of the CPC.

No one shall be detained without an order by an investigating judge, court, except the cases stipulated by the CPC of Ukraine. The features of the detention of a particular category of persons are determined by Chapter 37 of the CPC.

Everyone has a right to detain without an order by an investigating judge, court any person (except the persons specified in Article 482 of the CPC): 1) committing or attempting to commit a criminal offense; 2) immediately after a criminal offense has

been committed or during an ongoing persecution of a person suspected of having committed thereof.

Everyone who detained a person, while not being an authorized official (a person authorized by law to conduct detention) in accordance with the procedure provided by the part 2 of this Article, must immediately bring this person to an authorized officer or immediately inform an authorized official about the detention and location of the person suspected of committing a criminal offense.

The procedure and terms for the detention of a person by an authorized official are envisaged by Articles 208-212 of the CPC.

The grounds, procedure and terms of a lawful administrative detention in cases of administrative offenses are envisaged by Articles 260-263 of the Code of Ukraine on Administrative Offenses.

The requirements for carrying out investigating (tracing) activities, in particular search, are determined by Articles 223, 234-236 of the CPC.

Thus, Part 5 of Article 236 of the CPC envisages that a search pursuant to a decision by an investigating judge should be conducted within the extend needed to achieve the purpose of the search.

***Regarding the legal basis of the activities of the National Police, including the use of police measures***

The legal principles of the organization and activities of the National Police of Ukraine, the status of the policemen, as well as the terms of service in the National Police of Ukraine are determined by the Law of Ukraine On the National Police (hereinafter - the Law).

According to Articles 7, 8 of the Law, while carrying out its tasks, the police ensures observance of human rights and freedoms guaranteed by the Constitution and the laws of Ukraine, as well as by the international agreements of Ukraine, which the Verkhovna Rada of Ukraine consented to be binding, and promotes implementation thereof.

Restrictions of the human rights and freedoms may be allowed exclusively on the grounds and in the manner stipulated by the Constitution and laws of Ukraine, in



cases of extreme necessity and to the extent needed for the carrying out of the police's tasks.

The implementation of measures restricting human rights and freedoms must be stopped immediately if the purpose of the application of such measures is achieved or there is no need for their further application.

The police officers are not permitted, under any circumstances, to facilitate, exercise, incite or tolerate any form of torture, cruel, inhuman or degrading treatment or punishment.

In case of detection of such actions, each police officer is obliged to immediately take all appropriate measures for their termination and must obligatory report to the direct supervisor about the facts of torture and intentions of their application. In case of concealment of the facts of torture or other types of mistreatment by police officers, the head of the body must initiate an official investigation and bring the perpetrators to justice within 24 hours from the moment when the information about such facts was received.

In case of detection of such actions a police officer must notify the pre-trial investigation body authorized to investigate the relevant crimes committed by police officers.

A police officer is also prohibited from execution of a criminal or explicitly unlawful instructions and orders. Orders, instructions and assignments of the senior bodies, supervisors, officials and officers, as well as political, economic or other expediency shall not serve as a ground for violation by a police officer of the Constitution and laws of Ukraine.

Article 23 of the Law envisages that police, in accordance with the tasks entrusted to it, carries out preventive activities aimed at preventing committing of offenses; takes measures in order to detect criminal, administrative offenses; terminates the detected criminal and administrative offenses; takes measures aimed at eliminating threats to life and health of individuals and public security that emerged as a result of a criminal, administrative offense; takes steps to ensure public safety and order in the streets, squares, parks, at the stadiums, stations, airports, sea and river ports, and other public places (subparagraphs 1, 3, 4, 10 of part 1 of Article 23 of the Law).

In particular, in order to perform the tasks, the police is entrusted with, it takes measures in response to offences, which are envisaged by the Code of Ukraine on

Administrative Offenses and the CPC of Ukraine on the basis and in the manner determined by the Law.

The police also applies, within its competence, preventive and coercive measures envisaged by this Law, in order to protect human rights and freedoms, prevent threats to public security and order or terminate of their violation.

The police may use other measures defined by individual laws to carry out the tasks it is entrusted with. At the same time, a police measure is used exclusively to execute the police powers. The chosen police action must be legal, necessary, proportionate and effective.

A police measure is terminated if the purpose of its application is achieved, if the inability to reach the goal of the measure is obvious or if there is no need for further application of such a measure (Articles 29, 30 of the Law).

While conducting preventive police measures, the police must inform a person about the reasons of application of preventive measures, as well as to bring to its attention the legal acts on the basis of which such measures are applied (part 2 of Article 31 of the Law).

Article 36 of the Law envisages that a police officer is authorized to demand from a person (persons) to leave a certain location for a certain period or to prohibit or restrict access of persons to certain territory or objects, if it is necessary for the maintenance of public safety and order, protection of life and health of people, preservation and fixation of the traces of the offense.

A police officer may restrict or prohibit the movement of traffic and pedestrians in certain sections of streets and motor roads in case of detaining persons in accordance with the law, during accidents, other emergencies, if it is necessary for ensuring public safety and order, protection of life and health of people.

The police is authorized to detain a person on the grounds, according to the procedure and for the terms envisaged by the Constitution of Ukraine, the CPC of Ukraine and the Code on Administrative Offences of Ukraine, as well as other laws of Ukraine (part 1 of the Article 37 of the Law).

In case of committing unlawful acts, police officers bear criminal, administrative, civil and disciplinary responsibility, in accordance with the law.

The state, in accordance with the law, compensates to a private or legal person for the damage inflicted by decisions, actions or inactions of a police body or unit, a police officer while exercising their powers (Article 19 of the Law).

***Regarding legal grounds to restrict or prohibit mass media to cover events of peaceful gatherings, protest actions***

According to Article 34 of the Constitution of Ukraine, the right to freedom of thought and speech, and to free expression of views and beliefs is guaranteed to everyone.

In accordance with Article 24 of the Law of Ukraine On Information, censorship – any requirement, directed, in particular to a journalist, a mass medium, its founder (co-founder), publisher, manager, distributor, to coordinate the information prior to its dissemination or imposition of a prohibition as well as obstruction in any other form of replication or dissemination of information, is prohibited.

This prohibition does not apply to the cases when prior coordination of information is carried out on the basis of the law, as well as in case of a prohibition on the dissemination of information was imposed by the court.

Interfering with professional activities of journalists, control over the content of the disseminated information is prohibited, in particular, with the purpose of disseminating or not disseminating certain information, suppressing information necessary for public, imposing a ban on covering certain topics, displaying certain individuals or disseminating information about them, prohibiting criticism of certain subjects of authority, except in cases defined by the law, as well as by an agreement between the founder (owner) and the staff or by an editorial charter.

A deliberate impediment to the legitimate professional activities of journalists and/or prosecution of a journalist for performing professional duties, for criticism entails responsibility, in accordance with the laws of Ukraine.

Parts 1 to 3 of Article 2 of the Law of Ukraine On Printed Mass Media (Press) in Ukraine stipulate that freedom of speech and free expression of views and beliefs in printed form are guaranteed by the Constitution of Ukraine and, in accordance with this Law, mean the right of everyone to freely and independently search, receive, record, store, use and disseminate any information through printed media, except in cases determined by the law, when limitation of this right is necessary in the interests of national security, territorial integrity or public order, in order to

prevent disturbances or crimes, to protect public health, to protect reputation or rights of other persons, to prevent disclosure of confidentially obtained information, or to maintain the authority and impartiality of justice.

According to Article 5 of the Law of Ukraine On Television and Radio Broadcasting, the censorship of information activities of a broadcasting organization is prohibited.

Interference of public authorities or bodies of local self-government, public or religious associations, their officials or employees, as well as owners, with the sphere of professional activities of TV and radio broadcasting organizations, which is not stipulated in the legislation of Ukraine, is not allowed.

According to Article 2 of the Law of Ukraine On Information Agencies, the freedom of activity of news agencies is guaranteed by the Constitution of Ukraine and current legislation.

Information agencies do not have the right to disclose in their publications data that constitute state secrets or other restricted information (except in cases specified by law), to call for a violent change or overthrow of the existing constitutional order, violation of the territorial integrity of Ukraine, undermining its security; to promote propaganda of war, violence and cruelty; to incite racial, national, religious hatred; to spread pornography or other information that undermines public morals or incites to offenses, degrades the honor and dignity of a person, as well as information that violates the legitimate rights and interests of citizens; to assess the culpability of persons in committing a criminal offense; to finger point a person who allegedly committed a criminal offense before a court decision is taken; as well as to publish materials revealing tactics and methods of a pre-trial investigation.

The news agencies do not have the right to promote in their publications propaganda of communist and/or national-socialist (the Nazi) totalitarian regimes and their symbols.

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