

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 22/8, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government allegations we have received of the **arbitrary arrest, detention, torture and ill-treatment of 11 members of the organization "Orthodox Kossacks"**.

According to information received:

The Orthodox Kossacks is a legally-established Ukrainian Non-Governmental Organization (NGO), registered in 2010. Membership of the Orthodox Kossacks requires members to be of Orthodox Christian faith and to be patriot, loyal to Ukraine motherland. It was founded to assist and help rehabilitate youngsters at risk of social destitutions through their enrolling into sports, mostly martial arts, and other social support programs. Constituted of former military personnel, including some veterans from the war in Afghanistan, they are also registered as a civil organization, authorized to possess weapons, and entrusted with the authority to assist police forces in maintaining and securing public order, which the NGO did upon the request of the law enforcement authorities on 2 May 2014 in Odessa. The Orthodox Kossacks belong to the Russian-speaking minority in Ukraine.

On 2 May 2014, a number of Orthodox Kossacks members were actively involved in supporting "pro-federalism" protesters, particularly during the events at the Kulikovo Square/Trade Unions House, where 42 protesters were killed, many of whom burned alive in the Trade Union Building. The members of the Orthodox Kossacks have been supporting "pro-federalism" movements since the Euromaidan events, which started in the autumn of 2013, and have both

cooperated with, and engaged in, peaceful activities in opposition to the new Government.

Between 8 and 23 April 2015, 38 leaders and members of the organization were arrested by the Odessa branch of the Security Service of Ukraine (SBU) and charged under penal code section 258/3 with organizing a terrorist group and planning to establish an “Odessa People's Republic”. As of early June 2015, possibly up to 18 were still detained and 22 others were under house arrest. Among those detained, 6 were identified as **Mr. Eliseev Vadim Alekseevich**; **Mr. Yankovski Igor Yurivich**; **Mr. Kolomeitsov Anatoly Borisovich**; **Mr. Nazarenko Vitaly**; **Mr. Cherep Dmitri Nikolaevich**; and **Mr. Shalamov Aleksandr**. They are currently detained in a pre-trial investigation/detention facility (SIZO) in Odessa. Following their arrest, allegations surfaced that severe legal and procedural irregularities were committed concerning the conditions of their arrest and detention and that several of them were tortured or otherwise seriously ill-treated during interrogation by SBU officers.

On 21 April 2015, UN monitors of the Human Rights Monitoring Mission in Ukraine sought access to the SIZO in Odessa to interview these and other detainees accused of “terrorism” and assess conditions of arrest and detention and verify the allegations of torture or ill-treatment.

On 28 April 2015, they were eventually authorized to visit the SIZO. Eleven detainees, including the six named above, were interviewed individually and confidentially. They confirmed that searches of their homes were carried out without warrants and with excessive use of force; they were not informed of their rights and access to legal aid was provided with delays of up to 70 hours; SBU was bringing their own witnesses and did not record all seized belongings. They were officially notified about their detention only the next day after the apprehension or even later with no possibility to inform relatives and without access to legal aid.

In addition, seven of them alleged that they had been subjected to ill-treatment and torture during interrogation, including beatings, suffocation with bag on the head, electric shocks and deprivation of sleep, food and water for more than 24 hours. They also alleged people arrested were not provided with a defence lawyer and were mocked at when requesting one. Several detainees were hospitalized for with severe injuries. It is reported that traces of beatings were visible on the detainees’ faces in the form of bruises. One of them reportedly suffers from repulsed internal organs; one has broken ribs; and others experienced difficulty in walking following the beatings. There were also allegations of threats and blackmail to pressure the detainees to participate in “prisoners’ exchanges”. Reportedly, the purpose of the torture and ill-treatment during interrogation was to obtain confessions that may be used against them to establish their culpability in the offences imputed to them.

The Government of Ukraine stated that all allegations of torture and ill-treatment would be duly investigated.

Without prejudging the accuracy of the information received, we would like to remind your Excellency's Government of fundamental principles of international law, including, the right not be deprived arbitrarily of one's liberty, the right not to be subjected to torture and ill-treatment, the right to due process, as well as the rights to freedom of opinion and expression, and freedom of association, as stated, inter alia, in articles 3, 5, 9, 10, 19 and 20 of the Universal Declaration of Human Rights (UDHR); in articles 7, 9, 10, 14, 19, and 22 of the International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government ratified on 12 November 1973; as well as in articles 2 and 16 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT), which your Excellency's Government ratified on 24 February 1987. Furthermore, we would like to recall articles 7, 12, 14(1) and 15 of the CAT, which, respectively, require the competent authorities to undertake prompt and impartial investigations and prosecutions in alleged cases of torture; urge States to ensure, through their legal system, guarantees of redress and an enforceable right to fair and adequate compensation for victims of torture and ill-treatment; and prohibit the use of any statement made as a result of torture.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156 and paragraph 8b of Human Rights Council Resolution 16/23, which, remind States that prolonged incommunicado detention or detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information on the legal grounds for the arrest and detention of the 11 individuals mentioned above. Please explain how such measures were compatible with the international standards as stated, inter alia, in the UDHR, the ICCPR and the CAT, of which Ukraine is a party.

3. Please provide detailed information, and where available, the results of any medical examinations, investigation, judicial or other inquiries carried out in relation to the allegations of torture and ill-treatment of 7 of the 11 individuals. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. In case that the allegations are confirmed, please provide information on any investigation as well as penal, disciplinary or administrative sanctions against the responsible SBU officers. If no investigations have taken place, or if they have been inconclusive, please explain why.

5. In case that the allegations are confirmed, please provide information about any remedial action taken vis-à-vis the 11 individuals mentioned above.

6. Please provide information on local and national procedures of safeguarding the rights and security of persons in police and other law-enforcement personnel custody as well as further steps preventing future cases of ill-treatment, including in the present context of conflict.

While awaiting a reply, we urge that all necessary interim measures be taken to protect the individuals concerned, to investigate the alleged violations against them, to prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Seong-Phil Hong  
Chair-Rapporteur of the Working Group on Arbitrary Detention

Ben Emmerson  
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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