

PART II

# NATIONAL FRAMEWORKS AND PRACTICES OF THE ENFORCEMENT OF PRE-TRIAL DETAINEE'S RIGHTS

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is part of  
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**BRIDGING  
VIEWS FOR  
A RIGHTS-BASED  
APPROACH  
TO PRE-TRIAL  
DETENTION**



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# Access to Justice for Pre-Trial Detainees in UKRAINE: Law and Practices



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# 1 INTRODUCTION/OVERVIEW

## ROADMAP OF NATIONAL CHAPTER

This national chapter examines how the legal and institutional systems in Ukraine protect the rights of people held in pre-trial detention and how these rights are exercised in practice. It focuses on access to justice, the availability of legal aid, and the ways in which detainees can challenge the conditions of their detention.

The analysis takes place against a complex background. Ukraine's justice system is undergoing reform while also operating under the pressures of a full-scale war. These extraordinary circumstances have exposed the weaknesses of the detention system and the gap that often exists between legal guarantees and their implementation. The aim of the chapter is to understand how the system functions under these conditions and whether the rights of detainees exist not only in law but also in daily reality.

The chapter draws on both the formal legal framework and the experiences of those who work within it. It begins with an overview of the laws regulating pre-trial detention, including the procedures for arrest, judicial oversight of detention, and the role of investigating judges. It then analyses the complaint and remedy mechanisms available to detainees, paying particular attention to recent reforms such as the creation of special commissions to review detention complaints under the Law on Restoring the Rights of Convicted and Remanded Persons in Connection with Inadequate Conditions of Detention.

Further sections explore access to legal information and the organisation of legal aid, including the work of the state system of free legal assistance, private lawyers, the Bar Association, and other actors involved in protecting the rights of detainees. The chapter also looks at the role of non-governmental organisations, university legal clinics, and national monitoring bodies, as well as the informal networks among detainees that often fill the gaps left by official structures.

Special attention is given to the impact of martial law and the ongoing war. These conditions have affected the work of courts, restricted the access of lawyers to detention facilities, and placed additional strain on already limited resources. Although important legal reforms have been introduced in recent years and progress has been made in aligning national law with European standards, the situation on the ground remains uneven. Many institutions are understaffed, and enforcement of rights is inconsistent.

Overall, the chapter seeks to show not only how the law is written but how it operates in practice. It asks to what extent Ukraine's justice system can provide real access to justice for people deprived of liberty in a time of conflict and change.

## METHODOLOGY

The research for this chapter was carried out by ZMINA (Viktoriia Kharchenko, Maryna Demura, and Tetiana Pechonchyk) with peer review by Dmytro Yagunov. It followed the research approach developed within the European Prison Litigation Network and combined two complementary parts: a desk-based study and field research.

The first part, conducted between November 2024 and January 2025, focused on desk-based research. It analysed the national legislation, case law, and policy documents that define the system of pre-trial detention and access to justice. It also reviewed reports from the European Court of Human Rights, the Council of Europe, and Ukrainian human rights organisations. This stage provided an overview of the formal framework and identified the most recent legal changes, including new mechanisms for complaints and remedies.

The second part, completed between January and March 2025, focused on fieldwork. The research team sent formal information requests to the Ministry of Justice, the State Criminal Executive Service, the State Judicial Administration, and the National Bar Association. Nineteen semi-structured interviews were conducted with key participants, including lawyers working both within and outside the system of free legal aid, representatives of detention facility administrations, staff of civil society organisations and monitoring bodies, and one person formerly detained.

This approach made it possible to compare legal norms with daily practice. The interviews showed persistent difficulties: limited confidentiality between lawyers and clients, delays in legal assistance, insufficient access to legal information, and continued dependence on informal networks of support inside detention facilities. The war has made these problems worse by reducing staff numbers, disrupting communication, and restricting travel and safety.

Together, the desk-based and field research provide a detailed and balanced picture of access to justice in Ukraine's pre-trial detention system. They reveal both progress and fragility, with new laws and institutional reforms on the one hand and serious challenges in implementation on the other. The findings also highlight the role of individuals such as lawyers, human rights defenders, and detainees themselves, who continue to work for justice in extremely difficult conditions.

## OVERVIEW OF THE DETENTION REGIME FOR PRE-TRIAL DETAINEES

Pre-trial detention in Ukraine is regulated by the Criminal Procedure Code of Ukraine (CPC) and the Law of Ukraine "On Pre-Trial Detention". It is considered an exceptional preventive measure applied only when other, less restrictive measures cannot prevent specific risks, such as the risk of absconding, destruction of evidence, unlawful influence on witnesses or victims, obstruction of justice, or the commission of new offences.<sup>1</sup>

Persons subject to this measure are placed in pre-trial detention centres (SIZO) or, in some cases, in penitentiary institutions that perform SIZO functions, as well as in the military prison of the Military Law Enforcement Service of the Armed Forces of Ukraine.<sup>2</sup>

Article 8 of the Law "On Pre-Trial Detention" requires that detainees be separated according to specific categories: men from women, minors from adults, persons previously convicted from first-time offenders, and those accused of serious or national security offences from other detainees. Law enforcement officers, judges, prosecutors,

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1 Criminal Procedure Code of Ukraine, Article 177.

2 Law of Ukraine "On Pre-Trial Detention," Article 4.

and officials from other state institutions are also held separately. Foreign citizens and stateless persons are usually detained apart from Ukrainian nationals, and persons extradited from abroad are also kept separately.<sup>3</sup>

## Rights and Conditions

Pre-trial detainees retain the presumption of innocence and may not be subjected to restrictions beyond those necessary to secure the purpose of detention and maintain order and safety in the facility. They have the right to legal assistance, family contact, and freedom of religion.<sup>4</sup>

Meetings with defence counsel are not limited in number or duration and must take place under conditions that ensure confidentiality. Detainees are entitled to visits from relatives or other persons at least three times a month for up to four hours each, under administrative supervision, and may receive food or personal items from outside the facility subject to health and security rules.<sup>5</sup>

Detainees also have the right to meet with clergy to satisfy religious needs, take part in education, vocational training, or work if they wish to do so, and they are required to keep their accommodation clean.

## Detention Under Martial Law

Following the introduction of martial law in February 2022, amendments to the Criminal Procedure Code and the Law “On Pre-Trial Detention” allowed prosecutors, in exceptional cases, to authorise detention when an investigating judge is unable to perform their duties. This is permitted for serious or especially serious crimes, provided that delay could lead to the loss of evidence or escape of the suspect.<sup>6</sup>

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3 Ibid, Article 8.

4 Ibid, Articles 12–13.

5 Ibid, Article 12.

6 Law of Ukraine “On Amendments to the Criminal Procedure Code of Ukraine” and the Law “On Pre-Trial Detention” regarding additional regulation of law enforcement under martial law, 2022.

These amendments also introduced the temporary automatic extension of detention when it was impossible to hold a hearing. However, the Constitutional Court of Ukraine, by its judgment of 18 July 2024, declared this provision (Article 615, part 6 of the Criminal Procedure Code) unconstitutional, and it ceased to be valid on 18 October 2024.<sup>7</sup>

## Spaces of Pre-Trial Detention

The penitentiary system of Ukraine is subordinated to the Ministry of Justice through the State Criminal Executive Service (SCES). According to SCES data presented in 2024, the penitentiary network consisted of 177 functioning institutions, including 115 correctional colonies, 23 correctional centres, 19 pre-trial detention centres (SIZOs), 15 penitentiary institutions performing SIZO functions, and five educational colonies for juveniles.<sup>8</sup>

As of 1 January 2025, a total of 37,119 persons were held in these institutions. Of them, 15,505 persons were in pre-trial detention, 21,097 persons were serving sentences in correctional colonies, 308 were in educational colonies, and 209 were held in correctional centres.<sup>9</sup> This figure shows a decline of about 11,000 persons compared with 2022, when the total population reached 48,038, and continues the long-term downward trend from previous years.

The largest number of persons in custody are concentrated in Dnipro, Kyiv, Odesa, and Kharkiv regions, where several large SIZOs and correctional colonies operate. By contrast, many western regions have smaller facilities with lower occupancy rates.

The full-scale Russian invasion in 2022 significantly disrupted the territorial organisation of the penitentiary system. According to SCES, 44 penitentiary institutions remain in territories temporarily beyond the control of the Government of Ukraine. These include 19 institutions in Donetsk region, 16 in Luhansk region, three in Zaporizhzhia, one in Kherson, and five in the Autonomous Republic of Crimea.<sup>10</sup>

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7 Constitutional Court of Ukraine, Judgment No. 8-r(II)/2024 of 18 July 2024. [LINK](#)

8 Ministry of Justice of Ukraine, State Criminal Executive Service, Statistical Report on the Penitentiary System of Ukraine, 2024.

9 Ministry of Justice of Ukraine, Statistical Bulletin on Convicted and Detained Persons, January 2025.

10 State Criminal Executive Service of Ukraine, Regional Breakdown of Penitentiary Institutions, 2025.

Facilities close to the front line or in regions affected by hostilities face continuing challenges with security, supply chains, and medical access. Transfers of detainees from these areas to central and western Ukraine have led to overcrowding in several SIZOs, notably in Kyiv, Odesa, Dnipro, Lviv, and Khmelnytskyi. The relocation of staff and the partial evacuation of institutions have further complicated operations and contributed to uneven workloads across the system.

### Main Social Characteristics of the Prison Population

As of early 2025, the total prison population in Ukraine amounts to 37,119 detainees, including 36,333 Ukrainian citizens and 786 foreign nationals. Among them are 34,593 men, 2,393 women, and 133 minors, five of whom are girls.<sup>11</sup>

The state does not compile statistics on the age of prisoners, and no detailed data on their educational level were provided in response to official information requests.

With regard to persons with disabilities and those suffering from mental disorders, as of early 2025, institutions under the Health Care Centre of the State Criminal-Executive Service (SCES) held 5,004 persons registered with mental and behavioural disorders and 1,213 persons with disabilities. Of these, 37 have a Group I disability, 315 a Group II disability, and 861 a Group III disability.<sup>12</sup>

Before the full-scale invasion, 6,582 individuals with mental and behavioural disorders and 1,081 persons with disabilities were registered, including 38 in Group I (most severe), 329 in Group II (moderately severe), and 714 in Group III (least severe).<sup>13</sup> Despite the temporary occupation of certain territories and the lack of updated reporting from those regions, the number of persons with disabilities within the penitentiary system has increased since 2022.

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11 According to the response of the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine No. 25/19-ni/5.4.3/14-25/ 3/1/24.1-25 of 31 January 2025 to the request of the Human Rights Centre ZMINA.

12 According to the response of the Health Care Centre of the State Criminal Executive Service of Ukraine No. 226-ЦА-25 of 05.02.2025 to the request of the Human Rights Centre ZMINA.

13 Ibid.

As for the legal grounds for pre-trial detention, 9,521 individuals were being held in pre-trial detention centres (SIZOs) or SIZO units at the beginning of 2025. Of these, 964 were suspected or accused of committing minor offences, while 8,557 faced charges of serious or particularly serious crimes.<sup>14</sup> At the beginning of 2022, 648 persons were held in pre-trial detention facilities located in the temporarily occupied territories, specifically in the Starobilsk, Kherson, and Mariupol SIZOs. Among them 53 for minor crimes and 595 for serious or especially serious crimes.<sup>15</sup>

As of early 2025, among those serving sentences in SCES institutions under government control, the largest categories of offences are theft (5,619 persons), intentional murder (4,998), robbery (2,075), brigandage (1,231), intentional grievous bodily harm (2,022), rape (623), crimes against the foundations of national security (649), military criminal offences (559), hooliganism (271), and misappropriation, embezzlement, or abuse of official position (74).

Among all convicts, 11,377 individuals are serving their first prison sentence.

## Impact of war

The war has affected both the number and profile of detainees. As of early 2024, approximately 46,000 persons were held in custody, including 26,000 convicts and 20,000 pre-trial detainees, compared to nearly 49,800 before the invasion.<sup>16</sup> The decrease is linked to temporary occupation of territories and the parole of convicts to join the Armed Forces of Ukraine. Between February and April 2022, presidential decrees pardoned 363 prisoners to participate in hostilities,<sup>17</sup> and in May 2024, the Verkhovna Rada adopted a law permitting

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<sup>14</sup> According to the response of the Department for the Execution of Criminal Sentences of the Ministry of Justice of Ukraine No. 43/21-ni/5.4.3/14-25/ 3/1/24.1-25 of 07.02.2025 to the request of the Human Rights Centre ZMINA.

<sup>15</sup> Ibid.

<sup>16</sup> Levchenko T, 'Із в'язниці на фронт: які засуджені хочуть захищати Україну та хто з них зможе це зробити?' Радіо Свобода (15 April 2024): [LINK](#).

<sup>17</sup> See [LINK](#).

voluntary mobilisation of convicts serving sentences of up to three years, excluding those convicted of serious offences.<sup>18</sup>

## Key principles and issues established by the ECHR against Ukraine

### Medical assistance

Systemic neglect or delay in securing hospitalisation, diagnosis, or specialised treatment may amount to inhuman treatment irrespective of intent, especially where the authorities are aware of the detainee's critical condition and disregard medical recommendations.<sup>19</sup> The Court has equally condemned the detention of seriously ill individuals in facilities lacking the capacity to provide necessary care, noting that the State cannot rely on the structural deficiencies of its prison system to justify the absence of adequate treatment.<sup>20</sup>

Under the procedural limb of Article 2, the Court has established that deaths or serious harm in custody engage an obligation of prompt, impartial, and thorough investigation. Formalistic or repetitive refusals to open criminal proceedings, or investigations confined to administrative inquiries, fall short of Convention standards. In this regard domestic mechanisms must offer detainees a realistic prospect of redress for ill-treatment or medical neglect, including access to judicial review of detention conditions.<sup>21</sup>

### Material conditions of detention

While the Court in earlier judgments had identified discrete failings in Ukraine's detention regime (defective ventilation, inadequate lighting, insanitary cells, insufficient personal space, overcrowding, poor hygiene, and restricted time outdoors) these had been assessed case by case as constituting inhuman or degrading treatment under

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<sup>18</sup> Law of Ukraine №3687-IX 'On Amendments to the Criminal Code, the Criminal Procedural Code of Ukraine and other legislative acts of Ukraine concerning the introduction ...' (Ukraine, 8 May 2024): [LINK](#).

<sup>19</sup> *Kats and Others v. Ukraine*, *ibid.*, §§ 132–136; *Logvinenko v. Ukraine*, Application no. 13448/07, Judgment of 14 October 2010, §§ 63–68.

<sup>20</sup> *Isayev v. Ukraine*, Application no. 28827/02, Judgment of 28 May 2009, §§ 53–58

<sup>21</sup> *Kats and Others v. Ukraine*.

Article 3.<sup>22</sup> Over time the case-law crystallised that such deficiencies, when systemic and persistent, must be regarded not as isolated lapses but as evidence of a structural failure of the State to ensure that detention conditions remain compatible with human dignity and physical integrity.<sup>23</sup>

This doctrinal evolution culminated in the Sukachov pilot judgment, in which the Court formally recognised a “structural problem” of inadequate pre-trial detention conditions in Ukraine.<sup>24</sup> Cumulative impact of severe overcrowding, deficient lighting, ventilation, and sanitary arrangements, and the inadequate allowance of exercise constituted a violation of the substantive limb of Article 3.<sup>25</sup> The Court further held that Ukraine had breached Article 13 by failing to provide effective domestic remedies enabling detainees to challenge their material conditions.<sup>26</sup>

Despite the firm timeframe established by the Court to remedy the shortcomings found in the Sukachov judgment, Ukraine has yet to comply with its obligations under Article 46 of the Convention. Supervision of enforcement of the pilot judgment is now under the authority of the Committee of Ministers of the Council of Europe, which last examined the case at its 1537th DH meeting in September 2025.

### Violence by the prison staff

In the **Davydov and Others v. Ukraine** judgment, the Court established that large-scale beatings, intimidation, and humiliating treatment of prisoners during searches and disciplinary operations by special forces amounted to inhuman and degrading treatment, reflecting a culture of tolerance toward excessive force in the penitentiary system.<sup>27</sup> It further held that the absence of effective judicial and prosecutorial oversight created structural impunity and violated the

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22 See, for example, case of Yakovenko v. Ukraine, no. 15825/06, judgment of 25 October 2007.

23 See *Orchowski v. Poland* and analogous treatment-conditions case-law (requiring structural measures where individual adjudication is insufficient).

24 *Sukachov v. Ukraine*, Application no. 14057/17, Judgment of 30 January 2020.

25 *Ibid.*, §§ 76–89.

26 *Ibid.*, §§ 121–126.

27 *Davydov and Others v. Ukraine*, 39081/02, judgment of 1 July 2010, §§ 281–287.

procedural limb of Article 3.<sup>28</sup> The later case of **Karabet and Others v. Ukraine** confirmed these findings, reiterating that the collective nature of such violence, the use of masked officers, and the lack of effective domestic remedies revealed systemic failings in ensuring accountability and preventing recurrence.<sup>29</sup>

The Committee of Ministers of the Council of Europe is currently supervising the execution of these judgments within the **Karabet/Davydov** group (CM/Exec no. 004-32113). The Committee has recognised the problem as structural, urging Ukraine to adopt reforms guaranteeing that penitentiary staff and special intervention units operate under effective civilian control, that independent complaint and investigation mechanisms are established, and that training and monitoring systems ensure respect for human rights in places of detention.

The supervision of the **Karabet and Others** group of cases<sup>30</sup> by the Committee of Ministers remains open, due continuing concerns over the persistence of ill-treatment, lack of prosecutions, and insufficient preventive safeguards within Ukraine's penitentiary system.

### Violence by fellow inmates

In **Plachkov v. Ukraine**, the Court found that the authorities' disregard for well-known tensions within a cell, their inaction despite earlier complaints, and the lack of supervision allowing sustained beatings demonstrated systemic negligence amounting to inhuman and degrading treatment.<sup>31</sup> Similarly, in **Orlov v. Ukraine (No. 2)**, the Court reiterated that ineffective investigations, cursory prosecutorial reviews, and the absence of disciplinary or criminal consequences for staff who failed to protect the victim breached the procedural aspect of Article 3.<sup>32</sup>

<sup>28</sup> Ibid, §§ 309-313.

<sup>29</sup> *Karabet and Others v. Ukraine*, supra, §§ 276-283, 295-299.

<sup>30</sup> Last examined by the Committee of Ministers at its 1340th DH meeting in March 2019.

<sup>31</sup> *Plachkov v. Ukraine*, Application no. 76250/13, Judgment of 15 April 2021, §§ 80-87.

<sup>32</sup> *Orlov v. Ukraine (No. 2)*, Application no. 54015/17, Judgment of 4 July 2024, §§ 24-29.

## Issues in the spotlight of the EU Commission

The European Commission's evaluation reports on Ukraine form part of the annual enlargement package assessing the country's progress toward EU accession, including its alignment with the *acquis* under Chapter 23, which covers the judiciary and fundamental rights. These reports provide a structured analysis of legislative and institutional developments, identifying achievements, shortcomings, and priorities for reform. Since Ukraine was granted candidate status in June 2022, the Commission has issued yearly progress reports. The findings of these reports guide both the EU's political dialogue with Ukraine and the conditionality attached to accession-related assistance.

### Legislative and institutional reforms

The adoption of amendments to Article 127 of the Criminal Code in December 2022 marked a long-awaited tightening of Ukraine's anti-torture legislation. The reform abolished limitation periods for torture offences and excluded suspended sentences, bringing the domestic legal framework closer to the UN Convention against Torture. However, it is noted that the maximum penalties remain disproportionately low compared to other violent crimes, and courts have continued to impose non-custodial sentences in serious cases. The reform, though significant in form, has not translated into a measurable decline in abuse or an increase in accountability.<sup>33</sup>

### Strategic and policy framework

The government's 2022–2026 Prison Reform Strategy and its 2025 operational plan were designed to respond to EU and CPT recommendations. Yet their implementation has been slow and their content limited. Most commitments remained within an already established framework that does not address the CPT's core demands.

### Militarisation and the "policing" model of prison administration

A worrying development identified by both the Commission and civil society is the re-emergence of a policing approach within the penitentiary system. Since late 2024, the Ministry of Justice has

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<sup>33</sup> See 2023 EPLN's contribution to the consultation of CSOs on Chapter 23, p.2.

prioritised creating operational units within the State Penitentiary Service with police-type investigative and surveillance powers. This reform, justified as an effort to enhance internal security, effectively blurs the distinction between custodial and investigative functions and contravenes the principle that prisons must remain separate from law-enforcement structures to prevent coercion and abuse<sup>34</sup>.

### Healthcare and material conditions

The transfer of prison healthcare to the Ministry of Health remains a critical unmet obligation. The Commission's 2023 and 2024 reports reiterate that medical care continues to fall under the Ministry of Justice, despite years of CPT recommendations to the contrary. The NPM and NGOs report chronic understaffing, shortages of medicines, breaches of confidentiality, and dangerous mixing of inmates with infectious diseases.

### Accountability and investigation of torture

The European Commission repeatedly notes that investigations into ill-treatment remain ineffective. Cooperation between the State Bureau of Investigation (SBI), prosecutors, and prison authorities is weak; specialised investigators are few and often assigned to unrelated cases.

EU Commission reports that in 2022, Ukrainian authorities registered 30 criminal cases alleging torture and 990 alleging abuse of power by law enforcement officers, leading to only a handful of prosecutions and even fewer convictions. Between 2018 and 2022, 484 torture cases were opened, resulting in 60 convictions but only 15 prison sentences. These figures illustrate the persistent failure of the criminal justice system to treat torture with due seriousness, reinforcing a climate of impunity among law enforcement and penitentiary staff.

The civil society and expert organisations confirm that impunity persists. In 2024, only three prison officers were charged nationwide,

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<sup>34</sup> According to the Rule 71 of the European Prison Rules, Prisons shall be the responsibility of public authorities separate from military, police or criminal. UN standards require also a "clear organisational separation between police and prison administrations" (see [LINK](#).)

despite over 7,000 recorded<sup>35</sup> injuries among inmates. While legislation increased the SBI's staffing ceiling, the Bureau still lacks independence and transparency, and reforms such as quarterly reporting on torture cases have not been implemented.<sup>36</sup>

## 2 **BODIES COMPETENT TO RECEIVE COMPLAINTS AND EFFECTIVENESS OF REMEDIES**

### OVERVIEW

#### Internal Administrative Complaints

Article 40 of the Constitution of Ukraine guarantees everyone the right to submit written individual or collective petitions or to address public authorities and officials in person, who must consider such petitions and provide a reasoned reply within the statutory timeframe. This right formally extends to persons deprived of liberty.

Under paragraph 6 of Article 13 of the Law “On Pre-Trial Detention,” complaints, applications, and letters unrelated to criminal proceedings are to be reviewed by the administration or forwarded to the competent authority in accordance with legal procedures.

In practice, however, this mechanism remains largely illusory. Complaints submitted through internal administrative channels are rarely addressed effectively, and detainees have little access to independent oversight or follow-up once their correspondence leaves the facility.

35 3,762 in 2020, 3,782 in 2021, 3,000 in 2022 4,321 in 2023. According to the information provided in the shadow report submitted to the CAT in 2025 by Zmina, ULAG and Ukraine Without Torture, with regard to the figures for 2022, 70% of these cases were recorded at the time of admission to the prisons and 897 cases (30%) were recorded during their stay.

36 See 2025 EPLN's contribution to the consultation of CSOs on Chapter 23, p.6.

## External Administrative and Monitoring Bodies and Institutions

### Prosecutor's Office

Under the Transitional Provisions of the Constitution, the prosecutor's office continues to supervise the observance of laws in the execution of sentences and other coercive measures restricting liberty. This function is intended to remain in place until a dual system of regular penitentiary inspections is introduced.

Although prosecutors retain formal authority to inspect detention facilities and respond to violations, in practice this mechanism is regarded as untransparent and ineffective<sup>37</sup>. The prosecutorial model lacks independence and often results in perfunctory reviews. The prosecution service has also been reluctant to relinquish this oversight role to another agency, which hinders the implementation of the dual-inspection model.

### Ombudsperson

The Ukrainian Parliament Commissioner for Human Rights serves as an independent institution with general oversight over the observance of human rights. The Ombudsman has unrestricted access to places of detention within the framework of the National Preventive Mechanism and can investigate individual complaints.

The Commissioner cannot impose binding decisions or prosecute violations directly. Instead, findings are referred to relevant authorities for action. Consequently, while this mechanism contributes to transparency and monitoring, it lacks enforcement capacity and is not, nor is it intended to be, a remedy as defined by the European Court of Human Rights. Broader impact of the Ombudsperson and the National Preventive Mechanism on the rights of detainees, their access to legal information and legal advice, will be discussed in sections below.

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<sup>37</sup> ZMINA Centre for Human Rights, 'Прокурори не можуть проводити об'єктивні інспекції у в'язницях – юрист' ZMINA (10 July 2018): [LINK](#).

## The Penitentiary Inspectorate of the Ministry of Justice of Ukraine

Following the amendments to the Constitution in 2016, it was planned to abolish prosecutorial supervision in prisons. A working group under the Subcommittee on Reforming the Penitentiary System and Probation of the Parliament (“Verkhovna Rada”) Committee has begun drafting a law “On a dual system of regular penitentiary inspections” (No. 5884)<sup>38</sup> and in 2021 it was submitted by the Cabinet of Ministers to the Verkhovna Rada.

### Detention Conditions Commissions

Recently adopted and entered into force legislation<sup>39</sup> amends the Criminal Executive Code and the Law “On Pre-Trial Detention” by creating a Commission to review complaints about detention conditions. Detainees, convicts, relatives, or lawyers may apply, and Commission decisions can be appealed in court.

The Law defines adequate detention conditions in line with constitutional and international standards, requiring protection from ill-treatment, medical care, proper nutrition, living space, sanitation, light, ventilation, and compliance with health rules. The Commission is tasked with establishing the fact of inadequate detention conditions and ensuring preventive measures such as transfers, repairs, or reducing overcrowding.

Compensation measures such as sentence reductions, commutations, or cancellation of records will only take effect once a respective draft law<sup>40</sup> is adopted. Until then, only preventive measures apply.

### Sub-legislation on the new Commissions

By Resolution No. 1549 of 31 December 2024, the Cabinet of Ministers approved the Regulation on the Commission for complaints about inadequate detention conditions. The Commission’s role is

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<sup>38</sup> Draft law on the establishment of a dual system of regular penitentiary inspections. Draft law No. 5884 dated 02.09.2021: [LINK](#).

<sup>39</sup> Draft Law No. 5652, and Law No. 4093-IX entered into force on 1 January 2025.

<sup>40</sup> Draft Law No. 5653 of 11 June 2025 was retracted by the Verkhovna Rada.

to establish whether detainees or convicts have been held in inadequate conditions and for how long.

Members of the Commission are appointed by the Ministry of Justice for the term of three years, at least half of them shall represent civil society. Judges, prosecutors, lawyers, people with criminal records, or former detainees cannot serve.

Applications by the detainees may be submitted in paper form (not subject to monitoring) or electronically to the Commission's postal or email address. From the applicable legislation it is unclear how confidentiality is ensured if the prisoner is submitting a complaint electronically.

The Commission must immediately, and no later than two working days from receipt of the application, send a copy to the administration of the relevant institution. Within five days, the Commission or its authorised members, acting on the chairperson's instruction, visit the facility to examine the conditions of detention and the administration's compliance with standards. The Commission may inspect institutions without prior permission, review documents, make recordings, and speak with detainees and staff.

Within three days of the visit, the Commission holds a meeting to determine whether the person was held in inadequate conditions and for what period. The decision is formalised in a resolution signed by all members present.

A copy of the resolution must be sent within two working days of its adoption to the facility administration, the detained or convicted person, their family member or relative, or the lawyer who submitted the application. Decisions are binding on administrations, which must take corrective measures such as transfers, repairs, or reducing overcrowding, and report back within ten days. Copies of decisions are also sent to oversight bodies. If dissatisfied, detainees or convicts may appeal the Commission's decision in court within one year.

As of May 2025, four Commissions became operational within the relevant interregional Departments for the Execution of Criminal Sentences and they have considered 15 complaints finding no grounds to intervene for various reasons. Two other Commissions

were under formation.<sup>41</sup> Its effectiveness so far has been seen as low by the Committee of Ministers due to the lack of tangible improvements in detainees' conditions of detention.<sup>42</sup> Moreover it is unclear what is the role of the detainees and their lawyers in the process besides the initiation of complaint and possible appeal.

## Criminal investigation bodies and Judicial Remedies

### Criminal investigations by the National Police and State Bureau of Investigation

There is a long-standing practice of submitting complaints to the police under Article 364 of the Criminal Code (abuse of power or office) and Article 365 (exceeding authority or official powers) in cases of ill-treatment or other abuses committed by penitentiary or law enforcement officers. Formally, under the current Criminal Procedure Code, every such complaint should be immediately registered in the Unified Register of Pre-Trial Investigations, thereby triggering an official inquiry. In practice, however, this mechanism has proved ineffective. Law enforcement bodies frequently fail to register complaints, delay their examination, or conduct only superficial inquiries.<sup>43</sup>

### Investigative judge

Under Article 206 of the Criminal Procedure Code, the investigating judge carries a broad duty to safeguard human rights in the course of pre-trial proceedings. This provision requires the judge to verify the lawfulness of detention and empowers them to order the release of a detainee if the detention proves unlawful. It also grants the judge the authority to intervene on their own initiative when there are signs of torture or ill-treatment, for instance by ordering a forensic medical examination and initiating a formal inquiry. In principle, this positions the investigating judge as a key guarantor of rights at the earliest stages of criminal proceedings. According to the expert

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41 Action Plan by the Government Agent of Ukraine before the ECHR in the case of Sukachov v. Ukraine, examined by the Committee of Ministers of the Council of Europe.

42 See Notes in the case of Sukachov v. Ukraine, CMDH examination of 15-17 September 2025.

43 see, for example, Just Talk discussion paper, 25 June 2020, on the issue of investigations of torture: [LINK](#).

community, judges rarely exercise these proactive powers and tend to avoid acting without a direct petition from the parties<sup>44</sup>. Even when defense counsel invokes Article 206 to challenge the legality of detention, such motions are often examined only after a preventive measure has already been applied, which significantly weakens their protective effect. The scope of authority under Article 206 remains ambiguous, as the Code does not provide a coherent framework for the judge's role, and the heavy caseload of investigating judges further limits their ability to engage in meaningful review.<sup>45</sup>

The new Law No. 4093-IX expands the judge's responsibilities by authorising judicial review of complaints against decisions of the Commissions on detention conditions. This effectively transforms the investigating judge into an "investigating and penitentiary judge." While this could provide a second level of review similar to an appeal on the merits, the exact scope of review is yet to be defined, raising concerns about potential overload and limited attention to individual cases. Additional concerns include conflict of jurisdiction given the absence of clearly defined rules on the matter.<sup>46</sup>

### Administrative courts

Administrative courts are competent to consider claims against acts or omissions of public authorities, including those of penitentiary administrations. In principle, this remedy allows prisoners to challenge unlawful disciplinary actions, restrictions, or systemic deficiencies in detention facilities.

Under the Code of Administrative Justice, any decisions, actions, or inaction of public authorities may be appealed before administrative courts, which review whether the contested measures were taken lawfully, reasonably, and proportionately, ensuring a fair balance between the individual's rights and the legitimate aims pursued. Everyone has the right to apply to an administrative court if they consider that their rights or interests have been breached by such acts or omissions.

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44 See, for example, Just Talk discussion paper, 20 December 2019, on the issue of application of Article 206 of CPC.

45 Ibid.

46 See, for example, decision of the Khadzhibey District Court of Odesa region of 4 June 2025 returning the appeal to the detainee due to the violation of the rules of jurisdiction: [LINK](#).

Articles 537 and 539 of the Criminal Procedure Code define the scope of matters falling under the jurisdiction of courts during the enforcement of sentences. These provisions identify, among other entities, the administrations of penitentiary institutions as separate procedural subjects. Paragraph 13-1 of PART I of Article 537 specifies that during the enforcement of sentences, the court, as determined under PART II of Article 539, has the power to examine complaints against other decisions, actions, or omissions of the administration of a penal institution. Under PART II of Article 537, the same procedure applies to the appeal of decisions, actions, or omissions by the administration of pre-trial detention centers.

At the same time, Part 9 of Article 539 establishes that the examination of matters defined under Paragraph 13-1 of PART I of Article 537 shall be conducted in accordance with the rules of administrative proceedings. Consequently, challenges concerning the actions or inaction of the administration of penitentiary or pre-trial detention institutions fall within the jurisdiction of administrative, rather than criminal, courts.

From this framework, it follows that within criminal proceedings, the decisions, actions, or omissions of the administration or officials responsible for overseeing the detention of individuals in pre-trial detention centers are not subject to challenge as acts of pre-trial investigation or preparatory proceedings. Instead, in accordance with the express provisions of Articles 537 and 539 of the Criminal Procedure Code, such appeals fall within the scope of administrative jurisdiction.

This division of competence is subtle and may create confusion in legal practitioners, let alone detainees, between issues arising during the investigation of criminal cases and falling under Article 206 of Criminal code and those concerning the treatment of detainees within custodial institutions under Articles 537 and 539.

### Constitutional Complaints

The Constitutional Court of Ukraine provides a constitutional remedy for individuals seeking to challenge the constitutionality of laws that directly affect their rights. In the penitentiary context, this includes the possibility of contesting legal provisions that restrict prisoners' rights or procedural guarantees.

The Constitutional Court plays an important role in shaping the governmental institutional architecture and feeds into the system of checks and balances when it comes to newly introduced reforms. For example, the court declared unconstitutional a provision that allowed investigators from the penitentiary system to investigate crimes committed within detention facilities<sup>47</sup>. The Court emphasized that such an arrangement creates an institutional conflict of interest, violating the constitutional and international standards of independence, impartiality, and effectiveness required for investigations into human rights violations. The Court reaffirmed that the State bears a positive obligation to protect life and human dignity, which includes ensuring independent investigations into abuses committed in detention. Such independence is impossible when investigators are hierarchically subordinate to the penitentiary administration. This decision is relevant not only to the investigative powers that had been granted to penitentiary staff, but also to the operational officers, whose powers are defined in regulations. These regulatory acts fail to guarantee the structural and institutional independence required for compliance with constitutional and international human rights standards.

Access to the Constitutional Court is constrained by strict procedural filters, which limit the number of cases admitted for consideration. While the Court has issued important judgments concerning procedural guarantees for persons in custody, constitutional review remains a narrowly accessible and time-consuming remedy.

## Compensatory Remedies

### Civil Actions for Damages

Prisoners may file civil claims seeking compensation for violations of personal rights, under Articles 22, 23, 1167, and 1195 of the Civil Code. They may also claim compensation within criminal proceedings under Chapter 9 of the CPC.

In practice, this remedy is seldom used by persons in custody. The concept of compensating non-pecuniary damage is still evolving

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<sup>47</sup> Decision of the Constitutional Court of Ukraine of 24 April 2018 No. 3-p/2018: [LINK](#).

in Ukrainian case-law, compensation amounts are minimal, and proceedings are lengthy.

## EFFECTIVENESS OF REMEDIES

### **Assessment by the European Court of Human Rights**

The Court has repeatedly concluded that, given the structural nature of the deficiencies, the remedies available in Ukrainian law are ineffective both in theory and in practice.

While, in theory, Ukrainian law provides several channels through which individuals may raise complaints about violations of their rights, in practice these mechanisms are either inaccessible, purely formal, or ineffective in preventing or redressing ongoing violations.

Under domestic law, the public prosecutor bears responsibility for overseeing compliance with legal standards in the application of measures restricting personal liberty. In exercising this function, prosecutors have the authority to demand that officials of detention facilities eliminate any violations and the underlying causes or conditions that contributed to them. Although this supervisory power could, in principle, serve as an important safeguard, the ECtHR has repeatedly found that complaints to prosecutors fall short of the requirements of an effective remedy.

The principal deficiency of this mechanism lies in its procedural structure. A complaint to the prosecutor does not derive from a detainee's personal right to obtain redress and is not designed to ensure the complainant's participation in the process. The matter is handled exclusively between the prosecutor and the administration of the detention facility, without providing the detainee an opportunity to be heard, to comment on the submissions of the prison authorities, or to present additional evidence. The detainee's involvement is limited to receiving information about how the prosecutor has dealt with the complaint. The Court has held that this procedural arrangement deprives the remedy of the essential features of independence, transparency, and adversarial participation required under Article 13.

Moreover, even if a detainee were to obtain a formal order from the prosecutor directing the prison administration to correct unlawful or inadequate detention conditions, the systemic overcrowding of Ukrainian detention facilities would render the order largely ineffectual. The improvement of one detainee's situation would inevitably come at the expense of others, as the administration lacks the capacity to implement structural changes or accommodate simultaneous demands for redress. The Court has noted this problem in several judgments, emphasizing that the widespread and recurring nature of poor detention conditions in Ukraine precludes effective individual relief within existing administrative or prosecutorial frameworks.

In numerous cases, including those giving rise to the present findings, the Ukrainian Government has failed to demonstrate how a complaint to the prosecutor could have prevented or remedied violations of Article 3 of the Convention relating to inadequate detention conditions. The Court has thus reiterated that such a complaint cannot be considered an effective remedy.

Furthermore, the ECtHR has examined other remedies advanced by the Government as allegedly effective in addressing complaints about detention conditions (such as petitions to the administration of a pre-trial detention centre (SIZO), appeals to other state authorities, or civil and administrative claims before the courts) and has likewise found them ineffective. These mechanisms were deemed inadequate because they did not provide timely or enforceable relief and because they addressed only individual grievances rather than the structural deficiencies underlying the problem.<sup>48</sup>

Taken together, these findings demonstrate that Ukraine lacks domestic remedies capable of providing effective preventive or compensatory redress for violations of the right to humane treatment in detention. The reliance on prosecutorial supervision, internal administrative procedures, or slow-moving judicial actions has failed to ensure compliance with the standards of Article 13 of the Convention.

In cases concerning ill-treatment in Ukraine, the Court has held that under the Code of Criminal Procedure of 1960, the hierarchical

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<sup>48</sup> Zinchenko v. Ukraine, § 53; Koval v. Ukraine, § 96; Malenko v. Ukraine, no. 18660/03, § 37, 19 February 2009; Iglin v. Ukraine, § 43; Samoylovich v. Ukraine, no. 28969/04, § 55, 16 May 2013; Kobernik v. Ukraine, no. 45947/06, § 38, 25 July 2013.

appeals to superior prosecutors or to the courts cannot be regarded as effective remedies for complaints of police ill-treatment and inadequate investigations. While domestic bodies often issued instructions to take additional investigative measures during reopened or ongoing inquiries, these instructions were either ignored or implemented superficially. The result was a cycle of repetitive reviews and remittals without substantive progress, rendering the process illusory and incapable of providing genuine redress.<sup>49</sup>

In the more recent cases<sup>50</sup> the Court held that the Ukrainian Government failed to demonstrate that the remedies under the new procedural regime (appeal to the investigative judge) were materially different or more effective than those available under the previous Code. Moreover, the applicant's use of the new remedies yielded no tangible results, as the remittals continued to be based on identical shortcomings such as the failure to conduct essential investigative steps and to comply with directives from supervisory authorities.

## Committee of Ministers

The recent Ukrainian reform embodied in Law No. 4093 of 1 January 2025 introduced a compensatory remedy for persons held in inadequate detention conditions. However, the mechanism established by this law does not envisage a direct or automatic reduction of the detainee's sentence. Instead, it requires the person concerned to satisfy additional criteria applicable to conditional release or commutation of sentence. As a result, the potential benefit of the remedy is contingent upon discretionary or unrelated legal conditions, which significantly undermines its effectiveness.

The absence of a clear and automatic link between the finding of inadequate conditions and the provision of concrete relief means that the mechanism fails to provide immediate and guaranteed redress to those affected. Victims of inhuman or degrading detention conditions are therefore left without a predictable or enforceable form of compensation.

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<sup>49</sup> See, *Kaverzin v. Ukraine*.

<sup>50</sup> See, *Adnaralov v. Ukraine*, no. 10493/12, judgment of 27 November 2014 or, more recently, *Karter v. Ukraine*, no. 18179/17, judgment of 11 April 2024.

Given these shortcomings, the compensatory remedy established under Law No. 4093 cannot be regarded as meeting the standards required under Article 13 of the Convention.<sup>51</sup> It neither ensures prompt and direct redress nor provides adequate compensation proportionate to the gravity of the violation, as envisaged in the Court's case law and the Committee of Ministers' execution practice.

In the context of investigation of cases of ill-treatment, while the Committee of Ministers has initially been supportive<sup>52</sup> of the newly established independent body to investigate cases of torture committed by the State agents – State Bureau of Investigations, reports about the low number of initiated investigations in comparison to the overall number of complaints, low number of indictments in comparison to the overall number of ongoing investigations led to Committee's doubts as to efficiency of the investigations of such cases.<sup>53</sup>

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51 See Notes in the case of Sukachov v. Ukraine, CMDH examination of 15-17 September 2025.

52 See Decision of the Committee of Ministers in the group of cases of Kaverzin/Afanasyev v. Ukraine during its 1323rd meeting in September 2018.

53 For more detailed info, see Notes by the Secretariat in the group of cases of Kaverzin/Afanasyev v. Ukraine for the 1483rd meeting in December 2023.

### 3 **ACCESS TO LEGAL INFORMATION**

Access to legal information for pre-trial detainees in Ukraine is structured through a combination of institutional resources (libraries, informational notices, and limited internet access) and personal assistance (visits by lawyers, legal aid services, and NGO/ombudsman interventions).

On paper, every pre-trial detention facility is required to provide detainees with core legal texts and updates, and detainees have avenues to learn about the law such as reading the Criminal Code in the library and receiving pamphlets on how to contact a lawyer.

In practice, as will be examined below, while these mechanisms have improved over time, they still fall short of fully empowering all detainees.

#### **OBLIGATION TO INFORM DETAINEES OF THEIR RIGHTS**

The right of persons deprived of liberty in the context of criminal inquiry to be informed of their rights is guaranteed by the Constitution and national legislation. Article 29 of the Constitution requires that every arrested or detained person be immediately informed of the reasons for detention, have their rights explained, and be given the opportunity to defend themselves and receive legal assistance from a lawyer. Articles 57 and 59 further establish the right to know one's rights and duties and to obtain professional, including free, legal assistance.

The Criminal Procedure Code obliges investigative bodies to appoint officials responsible for registering detainees and promptly explaining the grounds for detention and their rights<sup>54</sup>. From the first moment of custody in the context of criminal investigation, detainees must be informed of their key rights such as to know the accusation, to counsel, to remain silent, and to notify relatives.

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<sup>54</sup> Article 212.

Under the Law “On Pre-Trial Detention”, detainees may defend their rights within the criminal inquiry personally or through a lawyer from the moment of detention<sup>55</sup>. They must also receive a printed explanation of the relevant constitutional provisions and their procedural rights, including the right to remain silent and to legal defense.

## Access to Legal Materials and Information

### Prison Libraries

All pre-trial detention centers in Ukraine shall maintain libraries that detainees may use to obtain literature, including legal texts. The Ministry of Justice’s Internal Rules for SIZOs mandate that the library’s collection include up-to-date copies of key legal documents. By regulation, the SIZO library must stock the Constitution of Ukraine, the Criminal Code and Criminal Procedure Code, the Criminal Executive Code, Civil Code and Civil Procedure Code, and other laws governing criminal justice (such as laws on the Prosecutor’s Office and National Police) and life in detention (such as Law “On Pre-Trial Detention” or Internal Prison Rules by the MoJ).<sup>56</sup> Importantly, it must also hold texts of major human rights instruments and standards – for example, the European Convention on Human Rights, the European Prison Rules, and the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). It is, however, unclear how fully these provisions are fulfilled in practice.

SIZO staff shall facilitate access by delivering books and newspapers to detainees’ cells. Regulations require that a designated officer circulate library books to each cell at least once every 10 days. There is no formal limit on the variety of reading materials available, aside from security screening of content, and detainees engaged in studies can possess necessary textbooks in addition to recreational reading.

### Notices and Information in Detention

Beyond library resources, pre-trial facilities shall disseminate legal information through other channels. It is common for notice boards

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<sup>55</sup> Article 9.

<sup>56</sup> Internal Rules of Pre-Trial Detention Centres, Ministry of Justice of Ukraine.

or posted leaflets to display important contact information (such as how to reach the Ombudsman or free legal aid hotlines) and to outline complaint procedures.

Coordination Center for Free Legal Aid has developed information pamphlets specifically for pre-trial detention settings: these posters, intended to be placed in areas where detainees have phone or internet access, explain how to contact the national free legal aid call center and how to use the “client’s cabinet” portal to request assistance.<sup>57</sup>

**Findings from the field research:** according to a representative of the State Criminal-Executive Service (SCES), detainees in pre-trial detention centres (SIZOs) have access to information about their rights and how to exercise them through banners, leaflets, and an electronic library: “We have banners and leaflets in the institution, and each one explains where they can turn for their needs... Also, regarding access to legal acts... we have an e-book in the library.”

In practice, written materials are usually displayed on information stands in the corridors of SIZOs or penitentiary institutions. However, many prisoners do not read them or cannot access them because they rarely leave their cells or are not allowed into those areas. Information provided verbally upon admission is often limited to formality. As one former detainee stated: “I saw nothing in SIZO. I received information about my rights only in the courts, but nothing in SIZO. Even fiction books are difficult to get, not to mention booklets.”

An NPM monitor reported that during his visits to penitentiary institutions functioning as SIZOs between 2019 and 2021, information stands often contained outdated materials, and none displayed examples of how to file a complaint against the administration. In one such institution, an information stand included contact details for the Ombudsman’s Office.

## Internet

In recent years, Ukraine has introduced ways to modernize detainees’ access to communications and information technology, albeit in a controlled manner. According to the Procedure for Providing

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<sup>57</sup> Memos on access to legal aid for pretrial detention facilities: [LINK](#).

Convicts with Access to the Internet,<sup>58</sup> access to the global network is granted through specialised technical devices and tablets. SIM cards and cameras are blocked by software to ensure security. Each institution's administration compiles a list of websites allowed under the Ministry of Justice's official order. The list includes websites of Ukrainian state authorities and institutions, foreign governments and embassies, the European Court of Human Rights (including the eComms service), local authorities, registered media, international organisations, educational and cultural institutions, healthcare facilities, political, public and religious organisations, as well as sports, creative, reference and legal websites.

The administration may expand this list upon request from a detainee. According to information provided by the Department for the Execution of Sentences,<sup>59</sup> as of 1 October 2024, convicts possessed 5,659 personal tablets, and an additional 206 tablets were available in cells with improved detention conditions,<sup>60</sup> held on the balance sheet of pre-trial detention centres and penitentiary institutions.

In 2021, a ministerial order introduced an experimental initiative aimed at providing pre-trial detainees with paid access to the internet and IP-based telephony within detention facilities. The measure was presented as a progressive step toward improving communication and access to information for persons in custody.<sup>61</sup> However, despite its formal adoption, there is no evidence that the initiative has been implemented in practice.

**Findings of the field** research: some places of detention require that every email be reviewed by an operational officer, while others monitor communications only when there are security concerns, such as suspected fraud or intimidation. Internet access is restricted to approved government and legal websites, and in many

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58 On approval of the Procedure for organising access to the global Internet for convicts: Order of the Ministry of Justice of Ukraine dated 19.10.2017 No. 3233/5: [LINK](#)

59 Response of the Department for the Execution of Sentences of the Ministry of Justice of Ukraine No. 12\_0291 dated 09.12.2024 to the information request of Human Rights Centre ZMINA.

60 The so-called "paid cells" of the MoJ - On Approval of the Procedure for Arrangement of Cells with Improved Conditions of Detention and Provision of Paid Services to Persons in Detention in Pre-trial Detention Facilities of the State Criminal Executive Service of Ukraine to Ensure Improved Conditions of Detention: Order No. 3292/5 dated 15 September 2023: [LINK](#).

61 Order of the Ministry of Justice, by 15 September 2023 No. 3292/5: [LINK](#).

facilities computers are disconnected from the Internet entirely. Human rights monitors report that in some facilities the staff have undermined the intended purpose of the tablet program by blocking access to legal resources. According to the NGO “Protection of Prisoners of Ukraine”,<sup>62</sup> certain SIZO administrations only allow detainees to use the provided tablets for trivial purposes (like watching entertainment content), while preventing access to human rights websites or online legal databases.

The availability of tablets has improved access to legal aid in certain institutions. For example, some life-sentenced prisoners now use the **Electronic Court** system to file motions and receive court decisions online. Yet, in others (particularly women’s colonies) administrations report that inmates “do not need” Internet access, effectively denying them these tools.

In pre-trial detention centres, new IP telephony systems allow detainees to make calls without prior approval, and pilot projects enable self-funded calls through personal accounts. Despite these advances, most communication remains monitored, undermining confidentiality and raising concerns about interference with prisoners’ right to legal correspondence.

## Access to Legal Information Through Advice

As explain above, Ukrainian detainees’ choice in legal information is limited to outdated text of the laws and internet resources, if allowed by the facility administration. However, it is known that the Ukrainian legal system is complex and difficult to navigate if you’re not trained, let alone if you’re in a vulnerable situation such as pre-trial detention.

### Free Legal Aid Services

Ukraine’s Free Secondary Legal Aid system plays a significant role in providing lawyers to indigent detainees and offering legal consultations. Every individual taken into custody under criminal charges has the right to a state-funded lawyer.

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62 Prison conditions, Ukraine, 2024 report, p. 37: [LINK](#).

The respective Law “On Free Legal Aid” was adopted in 2011 and contains definitions of key concepts, a list of legal service providers, a list of entities entitled to free legal aid, etc. In particular, the authorities provide primary and secondary legal aid. Primary legal aid includes: providing legal information; providing advice and clarification on legal issues; drafting applications, complaints and other legal documents (except for procedural documents); providing assistance in ensuring a person’s access to secondary legal aid and mediation. Secondary free legal aid includes the following: defence; representation of the interests of persons entitled to secondary free legal aid in courts, other state bodies, local self-government bodies, and before other persons; drafting of procedural documents.

The regional Centers for Free Secondary Legal Aid assign attorneys to represent detainees during investigation and trial. In addition to courtroom representation, these legal aid lawyers are available to answer detainees’ questions about legal procedure, help prepare complaints or motions, and guide them on possible remedies (such as appeals, applications to the European Court of Human Rights, etc.).

While the law provides for free counsel, in practice detainees in remote or conflict-affected areas often face delays in seeing a lawyer. The ongoing war has exacerbated this, as courts and legal aid offices near frontlines may be disrupted. Reports indicate that access to qualified legal aid is “often hindered” in such areas, undermining detainees’ ability to get advice or prepare their defense. Even before the war, underfunding meant that legal aid lawyers carried heavy caseloads and could not always devote extensive time to educating clients about the law – a point noted by prison rights advocates who observe persistent gaps in legal awareness among prisoners<sup>63</sup>. Field research shows that lawyers working with clients in places of detention in Ukraine face practical and logistical challenges that hinder their work. Many detention facilities are located in remote areas, far from urban centres, which forces lawyers to travel long distances at their own expense and spend considerable time in transit. These difficulties have been compounded by the effects of martial law and the security restrictions imposed in regions close to the frontline. Although lawyers are technically permitted to move during curfew hours, this often does little to resolve the broader logistical constraints they encounter.

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63 Prison conditions, Ukraine, 2024 report: [LINK](#).

Frequent air alerts, particularly in regions affected by shelling, disrupt court proceedings and scheduled visits, while inconsistent responses from courts to such alerts further complicate the work of defence counsel. Organisational obstacles within detention facilities also remain common. At the end of reporting periods or before holidays, investigators and prosecutors tend to occupy meeting rooms for urgent procedural matters, which restricts lawyers' access to their clients. Even when special meeting rooms are available, delays often occur in bringing detainees to those rooms, resulting in shortened or cancelled meetings.

Access to legal aid in the temporarily occupied territories of Ukraine is severely restricted and difficult to verify, as independent institutions no longer operate. Russia has imposed its legislation on these areas, replacing Ukrainian law and requiring lawyers to obtain Russian citizenship and pass exams in Russian law to continue practicing.

After 2014, the number of lawyers in Crimea dropped from about 1,700 to 800, many of whom, especially those defending political prisoners, faced harassment, detentions, and prosecution. In the so-called "DPR" and "LPR," local "bar associations" and "courts" were established under occupation authorities, forcing lawyers to cooperate to retain their licenses.

Following Russia's full-scale invasion and annexation in 2022, Russian law was extended to all occupied territories. Ukrainian lawyers in government-controlled areas cannot legally work there, while residents of the occupied zones distrust remote consultations due to security concerns. As a result, effective access to legal aid in these regions remains almost nonexistent.

### Ombudsperson

Secretariat of the Parliament Commissioner for Human Rights (Ombudsperson) also contribute to detainees' access to legal information. Ukraine's National Preventive Mechanism (under the Ombudsman's office) conducts monitoring visits to SIZOs and often provides detainees with information on how to file complaints. During such visits, officials might answer detainees' questions about their rights or assist in transmitting grievances.

## Civil society

A number of human rights NGOs such as the Kharkiv Human Rights Protection Group, Ukraine Without Torture, Protection for Prisoners of Ukraine are authorized to visit detention facilities and have been known to educate inmates on their rights and legal options as part of their monitoring. While not a formal system of legal counseling, these monitoring bodies **de facto** perform an advisory function, helping prisoners understand avenues for relief. For instance, they might inform a detainee about the possibility of challenging ill-treatment or about procedural rights that detainee can insist upon. Reportedly, the NGO visits are more likely to happen in post-conviction facilities and access remains limited for pre-trial detention.

## PROVISION OF LEGAL INFORMATION TO FOREIGN PRISONERS

Ukrainian law guarantees non-native speakers the right to interpretation and translation during criminal proceedings. This right is established by Article 29 of the Constitution, which guarantees the right to defence, and Article 68 of the Criminal Procedure Code, which obliges investigators and courts to provide interpreters when needed.

Language may not be a ground for restricting access to legal aid. If a detainee does not speak Ukrainian, the Free Legal Aid Centre must provide an interpreter free of charge. All procedural documents must be translated during the trial. However, the Law “On Free Legal Aid” mentions interpreter assistance only for secondary legal aid, such as court representation and procedural drafting, and not for primary legal aid, which covers access to legal information.

One of the lawyers interviewed for this research noted that interpretation is usually available during the first meeting with a lawyer and for the translation of case materials, complaints, and other documents. Foreign prisoners have the same formal right to legal aid as Ukrainian citizens, and those who do not speak the language of the proceedings are provided with a defence lawyer at the state’s expense.

In 2023, the State Criminal-Executive Service translated internal regulations into seven languages to improve access to information

on detainees' rights. Despite these measures, the shortage of qualified interpreters, especially for less common languages, continues to delay proceedings and hinder effective legal assistance.

## COURT FEES, COMPLAINT FILING COSTS, AND LEGAL REPRESENTATION REQUIREMENTS

### Postal service

An important aspect of ensuring access to justice for those in pre-trial detention concerns the costs of filing complaints with courts and the responsibilities of SIZO administrations in this process.

Pursuant to Article 13 of the Law of Ukraine “On Pre-trial Detention,” the SIZO administration is required to forward complaints, applications, and petitions not related to criminal proceedings through the relevant services within three days of their submission.

Special provisions regulate the transmission of correspondence to international organisations and authorised officials. Prisoners may address complaints to the Ombudsperson, the European Court of Human Rights, the International Criminal Court, and other international bodies or authorised persons of organisations of which Ukraine is a member or participant, as well as to the prosecutor. Such correspondence is exempt from review by the SIZO administration and must be dispatched to the addressee within one day of submission.

While the costs of sending complaints in criminal proceedings are borne by the SIZO administration. All other correspondence is paid for by the detainee. Where a detainee lacks the financial means to purchase envelopes or stamps, the necessary items shall be provided at the expense of the administration, as stipulated by the Internal Regulations.<sup>64</sup>

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<sup>64</sup> Chapter 7 Clause 3 Sub-Clause 1 On approval of the Rules of Procedure for pre-trial detention centres of the State Penitentiary Service of Ukraine: Order of the Ministry of Justice of Ukraine dated 14.06.2019 No. 1769/5: [LINK](#).

Prisoners personally seal their letters before handing them to a designated official of the SIZO administration to ensure the confidentiality of correspondence. Upon receiving letters intended for courts or other authorities, the responsible official must issue a confirmation slip certifying that the correspondence has been accepted for dispatch.

The law imposes an obligation on SIZO administrations to forward complaints to the courts within the prescribed time limits and to cover postal costs where detainees are unable to do so.

### Court Application Fees

Under Ukrainian criminal procedural law, prisoners may apply to the court for the protection of their rights without paying a court fee. This exemption applies in particular to complaints submitted to investigating judges, which are central to prison-related litigation.

In administrative proceedings of a non-pecuniary nature, prisoners must pay a court fee amounting to 1,211.20 UAH<sup>65</sup> in 2024. Individuals who cannot afford to pay may be exempted from payment or granted a deferral, instalment, or reduction of the fee. This aspect is of particular relevance given that the detainees have limited opportunities to work while in pre-trial detention and reportedly receive 2-3 times less than a legal minimum. In one instance a detainee received 150 UAH for a month of work.<sup>66</sup>

According to Article 82 of the Civil Procedure Code of Ukraine and Article 88 of the Code of Administrative Procedure, an application for exemption from the court fee must be attached to the claim or filed as a separate document. The applicant must submit evidence of financial hardship, such as a certificate of income and family composition, a bank statement confirming the absence of funds, a certificate from the tax authorities on available accounts, or proof of supporting dependents who are unable to work.

The Supreme Court has emphasised that courts must carefully examine a claimant's real ability to pay when disputes involve public authorities and the applicant seeks exemption, reduction, or deferral of court fees. Courts are required to specify the evidence needed

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<sup>65</sup> PART II of Article 4 of the Law of Ukraine "On Court Fees": [LINK](#).

<sup>66</sup> Office of the Prosecutor General, 2023: [LINK](#).

to substantiate financial hardship, assess it properly, and provide a reasoned decision reflecting the applicant's circumstances and the nature of the dispute.<sup>67</sup> If an exemption is denied, the decision may be appealed only together with the judgment on the merits.

Court decisions may also be appealed in cassation. However, refusals to grant exemption from court fees cannot be challenged separately in cassation, as confirmed by the decision of the Grand Chamber of the Supreme Court of 14 June 2023, which established a specific procedural framework for appealing such matters.<sup>68</sup>

### Financial Implications for Legal Aid Recipients Following an Unsuccessful Case

The financial implications of unsuccessful litigation vary depending on the type of proceedings initiated by a detainee. In criminal procedure, all costs associated with the exercise of remedies (such as complaints to the investigating judge) are borne by the State. Detainees are not required to pay court fees in these cases, even if their complaints are dismissed.

In contrast, proceedings before administrative courts, including those concerning prison conditions or disciplinary measures, are subject to court fees. When an administrative claim is unsuccessful, the applicant is generally responsible for covering these costs. However, under Article 133 of the Code of Administrative Procedure of Ukraine, the court may, taking into account the applicant's financial situation, reduce the amount of court fees, exempt the person from payment in full or in part, or defer or allow payment in instalments for a defined period.

Importantly, if a detainee who has been exempted from court fees loses the case, the expenses incurred by the defendant are reimbursed from the State Budget of Ukraine in accordance with procedures established by the Cabinet of Ministers.

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<sup>67</sup> Resolution of the Supreme Court dated July 31, 2019 in case No. 821/1896/15-a (No. K/9901/14384/18): [LINK](#).

<sup>68</sup> Resolution of the Grand Chamber of the Supreme Court dated June 14, 2023 in case No. 607/23244/21: [LINK](#).

## Mandatory Legal Representation in Court Proceedings on Detention Conditions and Prisoner Status

Article 52 of the Criminal Procedure Code of Ukraine defines the cases where defence counsel participation is compulsory. It is required in criminal proceedings concerning especially grave offences from the moment a person becomes a suspect.

Mandatory legal representation also applies to minors, persons with mental or physical disabilities, individuals who do not know the language of the proceedings, and those subject to compulsory medical or educational measures. It is further required in cases involving special pre-trial or judicial proceedings, rehabilitation of deceased persons, and plea agreements.

Outside these categories, Ukrainian law does not require mandatory legal representation in prison-related or post-conviction proceedings. Legal aid in such matters is provided only upon request and based on eligibility under the free legal aid framework.

It needs to be also noted that since the 2016 Constitutional amendments related to justice, representation in courts can be conducted exclusively by attorneys (legal professionals admitted to the Bar), apart from a small category of cases in civil, commercial and administrative jurisdictions, inapplicable to prison litigation matters. Representation before the public authorities outside of the judiciary and criminal proceedings remains possible for non-attorney professionals, such as NGO lawyers.

### Legal Assistance to Detainees in Disciplinary Proceedings

**The Rules of Internal Procedure of Pre-Trial Detention Centres of the State Criminal-Executive Service of Ukraine** regulate, among other matters, the procedure for applying incentives and disciplinary sanctions to detainees and convicted persons held in SIZO<sup>69</sup>.

The Rules provide that the decision to apply a disciplinary sanction must be taken by a disciplinary commission established within each

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<sup>69</sup> These provisions are based on Articles 14 and 15 of the Law of Ukraine “On Pre-Trial Detention” and Articles 67–69, and 130–135 of the Criminal-Executive Code of Ukraine.

SIZO. The commission functions on a permanent basis and includes the head of the SIZO, deputies, and heads of relevant services who have direct contact with detainees. It is competent to examine the circumstances of the alleged disciplinary offence and to determine whether a sanction is appropriate. A detainee must be informed in writing of the time and place of the disciplinary hearing at least one day in advance, and this period may be extended by up to two days upon a written request from the detainee.

Under the amendments introduced by Order No. 2060/5 of the Ministry of Justice of 24 July 2025, the Rules now explicitly recognise the right of detainees to obtain legal assistance during the preparation and conduct of disciplinary proceedings. A detainee may, at their own choice, be represented by a lawyer or another specialist in the field of law who is authorised to provide legal assistance under national legislation.

If a detainee does not have access to a lawyer or other qualified legal professional, the SIZO administration must ensure that they can contact a provider of free legal aid. This must be arranged without undue delay and within twenty-four hours of receiving a written request from the detainee or their close relatives. The Rules specify that contact may be facilitated by telephone, by electronic communication, or by post, depending on the detainee's choice. The administration is required to record the time, date, and method of this communication and attach the record to the detainee's personal file.

The Rules also provide that detainees and their representatives have the right to access information and documentation relevant to the disciplinary case not later than one day before the hearing. They may examine the materials of the disciplinary proceedings and their personal file, make notes, copy documents, submit explanations or objections orally or in writing, and request the participation of other persons whose presence may help establish the relevant circumstances.

## 4 LEGAL AID

### SCOPE OF LEGAL AID BEYOND CRIMINAL PROCEEDINGS

In Ukraine, the legal aid regime is anchored primarily in criminal and related proceedings. The Law “On Free Legal Aid” distinguishes between primary legal aid (legal information, consultations, legal advice) and secondary legal aid (representation before governmental institutions, drafting procedural documents, defence in court, etc.).

By virtue of law, persons placed in pre-trial detention are automatically entitled to legal services listed in points 1 and 3 of part two of Article 13 of the Law, which include defence in criminal proceedings and drafting of procedural documents. They are also entitled to representation before the authorities if they have been subjected to violence, torture, or other cruel, inhuman, or degrading treatment while in custody.

In procedures beyond the criminal proceedings, assistance may be granted under Article 14, PART I, paragraph 1 of the Law, under the “means test”. The decision to provide such aid is made by the Free Secondary Legal Aid Centres (FSLACs) if the applicant lacks sufficient financial means to hire a lawyer.

A person qualifies for legal aid if their family’s average monthly income is below the subsistence minimum established in accordance with the Law of Ukraine “On the Minimum Subsistence Level” for the relevant social and demographic group.

However, in practice the application of legal aid to prison-related litigation or internal administrative complaints is significantly constrained. The system reluctantly provides continuous representation for prisoners in internal prison matters such as complaints to prison administration or disciplinary proceedings. Legal aid is more readily accessible when prison-related issues escalate to court, such as for instance, in judicial review of prison decisions, appeals on sentence execution, or civil or administrative claims before courts.

## OVERVIEW: FUNDING STRUCTURES FOR PRISON-RELATED LEGAL WORK

The financing of prison litigation in Ukraine relies, where applicable, on the state-funded system of free legal aid administered by the Coordination Centre for Legal Aid Provision under the Ministry of Justice. Lawyers providing state-funded legal services are remunerated from the State Budget according to fixed hourly rates established by the Cabinet of Ministers.

Alternative sources of financing, such as private legal insurance or structured pro bono schemes, are largely absent. While some non-governmental organisations and human rights groups, as will be examined further, provide legal assistance to prisoners in strategic cases or in applications to the European Court of Human Rights, such interventions do not substitute for systemic state support.

## LEGAL FRAMEWORK AND FUNDING OF LEGAL AID SCHEME

The right to legal assistance in Ukraine is guaranteed by both international and domestic law. Under Article 6 § 3(c) of the European Convention on Human Rights and Article 14(3)(d) of the International Covenant on Civil and Political Rights, everyone charged with a criminal offence has the right to defend themselves personally or through legal assistance of their choosing. Those without sufficient means are entitled to free legal aid when required by the interests of justice.

Domestically, Article 59 of the Constitution of Ukraine enshrines the right to legal aid, stipulating that it shall be provided free of charge in cases defined by law. The Law of Ukraine “On Free Legal Aid” defines free legal aid as state-guaranteed assistance funded in whole or in part by the state or local budgets. Article 42(3)(3) of the Criminal Procedure Code of Ukraine further provides that suspects and accused persons have the right to defence counsel upon request, including confidential consultation before the first interrogation and representation at the state’s expense when they lack financial means. The Council of Europe Parliamentary Assembly Resolution

No. 1466 (2005) similarly urged Ukraine to establish a free legal aid system in line with Council of Europe standards and the case law of the European Court of Human Rights.

The free legal aid system in Ukraine operates under the supervision of the Coordination Centre for Legal Aid Provision within the Ministry of Justice. It is governed by the Law “On Free Legal Aid” and relevant procedural codes, including the Criminal Procedure Code, the Code of Administrative Justice, and the Code of Administrative Offences. The law distinguishes between primary legal aid, which includes legal information, consultations, and assistance in drafting applications or complaints, and secondary legal aid, which covers representation before courts and public authorities and the preparation of procedural documents.

Primary legal aid is provided by executive authorities, local self-government bodies, free legal aid centres, specialised institutions created by local authorities, private legal entities engaged by local governments, and individual lawyers contracted in accordance with the law. In practice, however, most of these institutions lack sufficient capacity to ensure consistent and effective assistance. Secondary legal aid is delivered through a nationwide network of Free Secondary Legal Aid Centres and by lawyers registered in the official Register of Legal Aid Providers.

Financing of the legal aid system is determined by the Cabinet of Ministers of Ukraine, which sets the methodology for compensating legal aid lawyers. Primary legal aid is funded through state and local budgets, while secondary legal aid is financed directly from the State Budget under allocations to the Ministry of Justice.

## HISTORY OF THE LEGAL AID SCHEME

Before the adoption of the Law “On Free Legal Aid” in 2011, Ukraine had no centralised or unified state system for providing free legal assistance. However, certain categories of individuals were entitled to free defence under existing procedural legislation, and various forms of publicly funded and **pro bono** legal help already operated within a fragmented legal framework.

The aforementioned law of 2011 laid the foundation for a structured and state-funded mechanism. In 2012, the Coordination Centre for Legal Aid Provision was created under the Ministry of Justice to manage and develop the national network of legal aid institutions. Regional centres for secondary legal aid began functioning in 2013, and in 2015, local centres were opened in regions, extending services beyond criminal law to include civil and administrative cases. From 2016 onwards, local bureaus of legal aid were established in almost every district. Quality standards for legal aid were gradually developed and implemented to regulate the work of lawyers and maintain the consistency of services.

## REMUNERATION

Remuneration for lawyers providing free secondary legal aid is regulated by Resolution No. 465 of the Cabinet of Ministers of Ukraine dated 17 September 2014<sup>70</sup>, which approved the Procedure for Payment for Services and Reimbursement of Expenses of Lawyers Providing Free Secondary Legal Aid, as well as the Methodology for Calculating the Amount of Remuneration<sup>71</sup>. The current payment system has been criticised by the legal community for its low remuneration rates and failure to reflect the actual time and effort required to provide quality legal assistance.

The hourly remuneration of a lawyer amounts to 5 percent of the subsistence minimum for able-bodied persons at the time the power of attorney is issued. In 2024, this corresponds to approximately UAH 151.40 (approximately EUR 3.1) per hour. The calculation system applies coefficients that consider the duration and complexity of proceedings, as well as the timeliness of reporting. The formula takes into account the number of lawyer visits and procedural actions but does not provide additional compensation for particularly complex or time-consuming prison cases.

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<sup>70</sup> Issues of payment for services and reimbursement of expenses of lawyers providing free secondary legal aid: Resolution of the Cabinet of Ministers of Ukraine dated September 17, 2014 No. 465, [LINK](#).

<sup>71</sup> The Procedure for Payment for Services and Reimbursement of Expenses of Lawyers Providing Free Secondary Legal Aid and Reimbursement of Lawyers' Expenses and the Methodology for Calculating the Amount of Remuneration of Lawyers Providing Free Secondary Legal Aid were approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 17, 2014 No. 465: [LINK](#).

In criminal proceedings, similar formulas are used, with certain coefficients applied for the complexity of the case or for performance incentives. Even when these coefficients are included, the effective hourly remuneration typically ranges between ₹150 and ₹300 (~ EUR 3 and 6, respectively), which does not adequately compensate for the actual workload involved.

Overall, the current remuneration system for lawyers, including those handling penitentiary matters, requires comprehensive reform. To ensure fair compensation, it is necessary to link payments to the real time and complexity of work performed, establish transparent funding mechanisms, and optimise the allocation of financial resources within the free legal aid system.

**Findings from the field research:** following the full-scale Russian invasion in February 2022, state resources were redirected to military and security needs, while compensation for FLA lawyers was classified as a non-protected budget item. As a result, payments for legal aid services and reimbursement of expenses were temporarily suspended. Despite these financial constraints, lawyers continued to provide assistance within reassurances to be ever compensated. By the end of May 2022, the debt owed to FLA lawyers had reached approximately UAH 60 million. Following joint efforts by the Coordination Centre for Legal Aid Provision and the Ministry of Justice, amendments to Treasury regulations allowed partial restoration of payments. In April 2022, the first transfers were made, and by late May, UAH 46.8 million had been paid to cover part of the outstanding debt.<sup>72</sup>

## REIMBURSABLE EXPENSES

The legal aid framework provides for the reimbursement of certain expenses incurred by lawyers in the course of delivering free secondary legal assistance. Covered costs include remuneration for legal services at all procedural stages, including pre-trial investigations, court hearings, and appeals. Compensation also extends to participation in procedural actions recognised by the financing mechanism.

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<sup>72</sup> Funding for payment for services and reimbursement of expenses of lawyers providing FLA was provided. Kyiv Region Bar Council, 2022: [LINK](#).

Lawyers are entitled to reimbursement for travel expenses, including public transportation costs and fuel used when operating personal vehicles in areas with limited transport access or during night-time travel. Business travel expenses such as per diem allowances and accommodation are covered when service provision requires travel outside the lawyer's home region.

Additional reimbursable expenses include postal and communication costs directly related to legal aid, as well as the purchase of personal protective equipment, such as masks and gloves, when representing clients during quarantine periods or in cases involving infectious diseases.

## ELIGIBILITY

Ukrainian legislation defines a broad range of persons entitled to receive free secondary legal aid (FSLA), which covers representation before courts and other state authorities, as well as defence in criminal and administrative proceedings. The right to such assistance is guaranteed without financial assessment for specific categories of individuals and extended, under certain conditions, to others on the basis of their financial situation.

Free secondary legal aid is granted automatically to persons deprived of liberty or otherwise subjected to coercive measures. This includes individuals placed under administrative detention or arrest, those detained within criminal proceedings, and those remanded in custody as a preventive measure. It also covers persons entitled to legal assistance under the Criminal Procedure Code in cases where defence is mandatory, where a lawyer must be appointed due to the lack of financial means or other objective reasons, where the "interests of justice" require representation, or where legal assistance is needed for a single procedural act. Prisoners serving sentences of deprivation or restriction of liberty are also entitled to free secondary legal aid.

For other criminal cases not covered by the mandatory categories, legal aid may be granted by decision of the Free Secondary Legal Aid Centres if the applicant lacks sufficient means to hire a lawyer.

## APPLICATION PROCEDURE

To obtain defence, representation before a court or help with drafting of procedural documents, a person in pre-trial detention must submit a written application for free secondary legal aid. The application is addressed to the relevant regional or local centre for free legal aid but must first be handed to the administration of the penitentiary facility. The administration is responsible for forwarding the application, together with a cover letter, to the appropriate legal aid centre.

Indeed, unlike correspondence with domestic and international human rights institutions, requests for the provision of legal aid is not excluded from the automatic screening by the prison authorities. Nor, at the early request stage, can it benefit from the lawyer-client confidentiality privilege. Thus, in the context of prison litigation, prisoners might be reluctant to express their grievances to the FLA center due to the fears of retaliation.

Upon receipt, the legal aid centre examines the application and issues a decision on whether to grant or deny legal aid within ten days. If the decision is positive, a lawyer or authorised legal specialist is appointed to the case. Within five days from the appointment, the lawyer shall conduct the first confidential meeting with the convicted person to provide legal assistance and discuss the details of representation.

The effectiveness of this procedure depends on the timely processing of correspondence by the prison administration, which, in situations of conflict with a detainee, may have little interest in facilitating access to legal aid for prison litigation and retains full control over the process. According to one human rights lawyer interviewed for the study, in some cases prison officials have been reported to simulate the dispatch of legal aid requests by falsifying entries in the outgoing mail register.

## EVALUATION AND GRANTING OF APPLICATIONS

At the operational level, regional and local centres for free secondary legal aid are responsible for providing legal representation in courts and before public authorities, while legal aid bureaus, as structural units of local centres, deliver primary legal assistance such as consultations and legal information. Applications for free legal aid may be submitted to any of these bodies.

When a centre receives an application for free secondary legal aid, it must consider it in accordance with the procedure and time limits established by Article 19 of the Law of Ukraine “On Free Legal Aid.” The centre examines the applicant’s eligibility (such as their financial situation or the fact of detention) and the nature of the legal issue, then issues a decision either granting or refusing legal aid within ten working days from receipt of the request and supporting documents.

If an application is granted, the legal aid centre appoints a lawyer or authorised legal specialist. In urgent cases, such as those requiring defence during investigative or judicial actions, the decision on appointment must be taken without delay (without specified deadline). If the applicant does not meet the eligibility criteria, the centre issues a written refusal within ten working days, explaining the reasons and informing the applicant of the right to appeal. Delays and omissions by the legal aid centre in performing their public functions are subject to appeal in line with the rules of administrative procedure.

Under Article 20 of the Law, free secondary legal aid may be denied if the applicant does not belong to an eligible category, provides false information or documents, requests actions not covered by law, has already received legal aid on the same matter, or has exhausted all domestic remedies in the case concerned.

Decisions refusing legal aid may be appealed. The applicant must first submit a written complaint to the higher-level legal aid centre. If the response is unsatisfactory, the applicant may challenge the decision before an administrative court. The appeal must include the refusal decision, supporting documents, and a statement explaining the grounds on which legal aid is necessary.

## CHOICE OF LAWYER

Once a request for legal aid is granted, the legal aid centre appoints a lawyer from the Register of Lawyers Providing Free Secondary Legal Aid – a list of attorneys, managed by the Coordinational Center for Legal Aid Provision, who signed framework contract to provide free legal aid. When assigning a lawyer, the legal aid centre takes into account several statutory criteria, including the lawyer’s professional expertise, experience, workload, and the complexity of the case.

The system operates within a number of structural constraints. Participation of lawyers in the free legal aid system is voluntary, allowing them to determine how many legal aid cases they accept. There is therefore no option for detainees to request appointment of a specific lawyer to provide legal aid. However, in the context of shortage of available legal professionals (more on the issue is discussed below), it is possible in theory that upon agreement between a person in detention and a lawyer that is registered with the free legal aid system, for the latter to request to be assigned to a particular legal aid assignment.

## REPLACEMENT OF A FREE LEGAL AID LAWYER

Under Article 24 of the Law “On Free Legal Aid,” a free legal aid lawyer or centre employee may be replaced in certain circumstances. Grounds for replacement include illness, incapacity, death, failure to fulfil contractual duties, refusal to execute an assignment, or other statutory reasons. The replacement must preserve continuity of legal aid so that the beneficiary is not left without representation.

A mere disagreement between a detainee and their free legal aid counsel over style or approach is not sufficient to justify replacement. What matters is a failure to comply with the standards of free legal aid. For instance, neglecting procedural duties or breaching quality obligations under the law. In such cases, the centre may replace the lawyer to safeguard the integrity of representation.

Because lawyers participate voluntarily in the free legal aid system, it is possible for a free legal aid lawyer and a prisoner to reach a mutual agreement under which the lawyer resigns and a new counsel is appointed.

Domestic courts have recently reinforced<sup>73</sup> a high standard of proof in decisions on replacing a legal aid lawyer: the applicant must convincingly demonstrate not only dissatisfaction but a violation of aid-quality norms or a breach of obligations.

In 2023, during a monitoring visit to the Khmelnytskyi pre-trial detention centre, the Ombudsman identified cases in which detainees had not received adequate legal assistance from the Regional Centre for Free Secondary Legal Aid. Prisoners reported that their assigned lawyers had neither attended court hearings conducted by video conference nor met with them to coordinate the defence strategy.

Following the Ombudsman's intervention, the Regional Centre conducted an internal investigation and confirmed that the lawyer in question had violated the Quality Standards for the Provision of Free Secondary Legal Aid in Criminal Proceedings. As a result, the lawyer was removed from the Register of Lawyers providing free legal aid, and the contract for legal service provision was terminated.<sup>74</sup>

## NON-UKRAINIAN SPEAKERS

Recent provisions<sup>75</sup> allow free legal aid centres to engage interpreters under service contracts, including contracts with individual entrepreneurs or legal entities, in accordance with the requirements of civil legislation.

When it comes to litigation, according to PART I of Article 12 of the Law of Ukraine "On the Judiciary and the Status of Judges," court proceedings in Ukraine are conducted in the state language. Persons who do

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73 Judgment of the Supreme Court in the case Top of Form 748/1972/19 of 20 November 2019Bottom of Form.

74 Special report of the Ukrainian Parliament Commissioner for Human Rights on the state of implementation of the national preventive mechanism in Ukraine in 2022. URL: [LINK](#).

75 Resolution No. 1048 of the Cabinet of Ministers dated 20 December 2017. [LINK](#).

not speak the language of the proceedings are guaranteed the right to participate with the assistance of an interpreter.

## BAR ASSOCIATION AND PRISON LITIGATION

In Ukraine, the responsibility for providing free legal aid, including to prisoners, lies primarily with the state-run Free Legal Aid system. The Bar does not directly administer free legal assistance but performs an essential coordinating and supervisory role within the legal profession.

The Ukrainian National Bar Association (UNBA) and regional bar councils serve as self-governing institutions for advocates. They regulate access to the profession, oversee compliance with ethical and professional standards, conduct disciplinary procedures, and organise continuing legal education. These functions ensure the competence and integrity of lawyers, including those who participate in prison litigation.<sup>76</sup>

According to the Law “On the Bar and Practice of Law,” a person seeking to acquire the status of a lawyer and the right to practice law must meet several general requirements: hold a full higher legal education, speak the state language, have at least two years of legal work experience, successfully pass the qualification examination, complete an internship (unless exempted), take the oath of the Ukrainian Bar, and obtain a certificate granting the right to practice law.<sup>77</sup> These requirements are uniform for all lawyers, as Ukrainian legislation does not prescribe mandatory specialisation for advocates in specific areas such as penitentiary or detention law.

Any licensed advocate may therefore represent prisoners or provide legal assistance in cases involving deprivation of liberty. Lawyers cooperating with the Free Legal Aid system must, however, pass a competitive selection process and sign a contract with the relevant regional legal aid centre before they can be appointed to cases.

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<sup>76</sup> Ukrainian National Bar Association. Law of Ukraine on the Bar and Practice of Law.

<sup>77</sup> *Ibid.*, Article 6.

Although UNBA plays no direct role in prison litigation, it contributes indirectly by regulating access to legal profession, maintaining professional standards and overseeing the quality of legal services.

This role is particularly important given that under Ukrainian law, only licensed members of the Bar are permitted to represent parties in courts and provide legal defence services. Ordinary jurists, legal consultants or in-house counsel may offer legal advice and draft documents but do not have the statutory right to act as defenders in court proceedings.<sup>78</sup>

## 5 OBSTACLES IN USING REMEDIES BY THE DETAINEES

### OBSTACLES RELATED TO THE DISPATCH OF COMPLAINTS

Ukrainian prison correspondence is governed by internal penitentiary regulations that historically grant administrations wide discretion to monitor, censor, or delay letters. Over the years the ECHR judgments revealed a consistent pattern of overreach by prison authorities and the absence of effective mechanisms to guarantee confidential and timely communication. In *Glinov v. Ukraine*<sup>79</sup> and *Davydov and Others v. Ukraine*,<sup>80</sup> it found that systematic monitoring and delays of letters to domestic institutions and lawyers were arbitrary and lacked legal safeguards. In *Belyaev and Digtyar v. Ukraine*,<sup>81</sup> the Court identified a blanket system of censorship applied to all correspondence, while in *Vintman v. Ukraine*,<sup>82</sup> the interception of letters addressed to the European Court was held to violate both Article 8 and the right of individual petition under Article 34.

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78 Ibid, Article 4

79 *Glinov v. Ukraine*, no. 13693/05, 19 November 2009.

80 *Davydov and Others v. Ukraine*, nos. 17674/02 and 39081/02, 1 July 2010.

81 *Belyaev and Digtyar v. Ukraine*, nos. 16984/04 and 9947/05, 16 February 2012.

82 *Vintman v. Ukraine*, no. 28403/05, 23 October 2014.

Following the delivery of the above judgments, national law formally exempts correspondence with courts, the prosecutor, the Ombudsman, defence counsel, and international bodies from review. Yet, numerous monitoring reports reveal that these requirements remain largely theoretical.

Reportedly no sealed appeals were sent to the Ombudsman, the prosecutor's office, or human rights organisations in twelve institutions over the entire monitoring period. A similar situation was documented, among others, in Arbuzyńska Correctional Colony No. 83 and Bozhkovska Correctional Colony No. 16. In six additional institutions, no correspondence to the Ombudsman was recorded, though a few appeals were registered with the prosecutor or other state bodies. In nineteen institutions, there were fewer than five appeals to the Ombudsman during the same period. In total, almost half of all those that responded to the monitors' requests reported either no or minimal correspondence with oversight bodies.<sup>83</sup>

The data strongly suggest that this cannot be explained by a genuine absence of need, given the general condition of the penitentiary system, but rather by the existence of administrative or informal obstacles. These include delayed or blocked dispatch of letters, denial of envelopes, and even the "loss" of correspondence by staff.. In one case recorded during a monitoring visit to the Kharkiv SIZO, a prisoner sent a letter to the Ombudsman and received confirmation of dispatch, but the letter never reached the Ombudsman's Secretariat, demonstrating a clear breach of the rules on prisoner correspondence.

### Retaliation by the authorities

Within places of detention, the obstruction of prisoners' correspondence rarely manifests only through formal censorship. Equally pervasive is the atmosphere of psychological pressure and fear of retaliation that discourages detainees from exercising their right to communicate freely with oversight or legal bodies.

Prisoners often internalize the risk that any attempt to report abuse, corruption, or violations of rights may provoke disciplinary sanctions,

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<sup>83</sup> In 18 penitentiary institutions, convicts have never appealed to the Ombudsman for a year and a half. Information portal of the Kharkiv Human Rights Protection Group, 2023: [LINK](#).

loss of privileges, or harsher treatment by staff. This climate of intimidation leads to widespread self-censorship: detainees refrain from writing complaints or sending letters not because they lack grievances, but because they fear the consequences of doing so.

For example, in the case of *Sergey Volosyuk v. Ukraine*,<sup>84</sup> the applicant, fearing the prison authorities, sent a complaint directly to the Prosecutor General through informal means, bypassing prison censorship. When the authorities found out about this, the applicant was punished by being put in a disciplinary cell. The Court held that this sanction was retaliatory and incompatible with the principles of legality and proportionality under Article 8. It emphasised that punishment for exercising the right to complain not only violates the individual's correspondence rights but also deters others from doing the same.

### Use of force in retaliation

The CPT has repeatedly drawn attention to the mistreatment of prisoners by special prison forces. In 2007, the United Nations Committee Against Torture urged the Ukrainian authorities to prohibit the use of anti-terrorist units within prisons in order to prevent intimidation and abuse of inmates. Nevertheless, such special forces continue to be deployed routinely, often in the absence of any genuine security necessity. According to the Ukrainian authorities, between 2017 and 2019 alone, special prison forces were deployed 2,765 times.<sup>85</sup>

A new spike in ill-treatment of detainees was seen after the full-scale invasion in 2022 during the evacuation of correctional facilities from conflict zones. Human rights monitors documented instances of abuse during the transfer of inmates from Orikhiv Correctional Colony No. 88 to Kropyvnytskyi Correctional Colony No. 6, where prisoners were reportedly beaten upon arrival.<sup>86</sup> In other institutions, evacuated prisoners reportedly faced mistrust and reduced access to work or rehabilitation programmes.

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<sup>84</sup> See *Sergey Volosyuk v. Ukraine*, 1291/03, 12 March 2009, paras. 91-92.

<sup>85</sup> See, 1377th meeting (June 2020) (DH) - Action plan (22/04/2020) - Communication from Ukraine concerning the case of *Karabet and Others v. Ukraine* (application No. 38906/07) and *Davydov and Others v. Ukraine* (application No. 39081/02), available at: [LINK](#).

<sup>86</sup> During the evacuation of prisoners from Zaporizhzhia to Kirovohrad region, they were severely beaten and tortured – human rights defenders. ZMINA, 2022: [LINK](#).

## Disciplinary and criminal action

A criminal punishment mechanism which criminalises “persistent disobedience to the lawful demands of prison authorities.” reflects the pressures that complainants face in Ukrainian prisons.

This provision, a legacy of the Soviet era, is so vague that it allows prison administrations to convert minor disciplinary infractions into criminal offences, granting them unchecked power to punish dissent. A bill envisages making this criminal offence subject to disciplinary measures.<sup>87</sup> International and national human rights bodies, including the CPT and the United Nations Working Group on Arbitrary Detention, have repeatedly condemned Article 391 as an instrument of repression.

## Use of coercion by fellow inmates

The administration continues the practice of delegating control and internal order to selected groups of inmates. These individuals, known as “duty prisoners” or “administration assistants,” form an informal yet powerful caste within the prison hierarchy, acting on behalf of the prison authorities. They often serve as intermediaries of coercion and intimidation.

These inmate groups, operating under the administration’s direction, have become one of the principal tools of deliberate ill-treatment and torture, perpetuating cycles of violence and reinforcing prison subculture. The Council of Europe’s Committee for the Prevention of Torture has repeatedly condemned<sup>88</sup> this practice and called for its complete abolition.

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<sup>87</sup> It is accessible to prison administrations to fabricate or exaggerate disciplinary violations, such as improper dress, unmade beds, or verbal resistance, to create the preconditions for prosecution under Article 391. Once a detainee has accumulated enough penalties, they can be placed in isolation or stricter conditions of confinement, which, first as a punishment in itself, then serves as formal justification for criminal proceedings. The result is a self-reinforcing system that punishes those who attempt to exercise their rights. In the case of Denys Kmet, who publicly denounced torture at Berdiansk Correctional Colony No. 77, he faced an immediate surge in disciplinary penalties and prolonged solitary confinement. In 2022 he was convicted under Article 391. His punishment followed a clear sequence of retaliation for lawful complaints, reflecting a broader strategy to silence witnesses of abuse. It needs to be noted that the provision covers post-conviction prisoners.

<sup>88</sup> CPT/Inf (2020) 40, <https://rm.coe.int/1680a0b93c>, paras. 26 and 36; CPT/Inf (2024) 20: [LINK](#), para. 4.

## LEGAL AID AND PRISON LITIGATION UNDER MARTIAL LAW

The introduction of martial law following the full-scale Russian invasion of Ukraine in February 2022 profoundly affected the functioning of the criminal justice and penitentiary systems, including the provision of legal aid and access to defence for persons in detention. The war created unprecedented challenges for lawyers, detainees, and state institutions responsible for safeguarding human rights. Shortages of legal professionals, restricted movement, disrupted infrastructure, and shifting criminal policy have significantly limited the ability of the system to operate effectively, particularly in frontline and temporarily occupied regions.

The following sections examine these developments in detail, outlining the main challenges and institutional responses shaping the provision of legal aid and prison litigation in Ukraine under martial law.

### Shortage of Lawyers and Pressure on the Legal Profession

Ukraine has recently experienced a significant shortage of lawyers, particularly in regions near the frontline. In 2023, new forms of pressure emerged, including intimidation and the use of draft notices against male lawyers. According to several practitioners, such practices intensified in 2024, leading many male lawyers to avoid travelling to detention facilities or court hearings. In some cases, legal teams adapted by dividing tasks (male lawyers prepared legal positions remotely, while female colleagues attended investigative actions, detention centres, and court proceedings).

### Remote Participation in Criminal Proceedings

During martial law, amendments to the Criminal Procedure Code introduced provisions allowing the remote participation of defence counsel.<sup>89</sup> Investigators and prosecutors may ensure the participation of lawyers in procedural actions through video or audio communication if physical attendance is impossible. While intended to maintain access

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89 PART 12 of Article 615.

to defence, this measure has raised concerns<sup>90</sup> among human rights organisations about confidentiality and the effectiveness of remote representation. The law does not require the consent of the lawyer or client for remote participation, and the absence of rules ensuring private communication between lawyer and detainee undermines the right to confidential defence.

### Access to Detention Facilities and Movement Restrictions

Under martial law, the movement of lawyers has been restricted due to curfews and security checkpoints. FLA lawyers were later allowed<sup>91</sup> to travel during curfews upon presentation of an official order, identity document, and bar certificate. However, legal professionals interviewed for the research note that in practice, access to detention facilities often depends on the discretion of checkpoint officers, many of whom are unaware of lawyers' rights to unrestricted movement for legal purposes. Lawyers also report vehicle inspections and additional checks, especially near strategic or administrative facilities.

### Impact of War on the Profile of Detainees

The population of pre-trial detention facilities in Ukraine includes, among others, individuals suspected of collaboration and treason. Since the onset of the armed conflict in 2014, the number of detained military personnel has increased, covering both general criminal offences and those related to military service, such as desertion, unauthorised absence, and insubordination.

Military personnel in custody are held either in institutions under the Ministry of Justice or in military prisons subordinated to the Military Law Enforcement Service of the Armed Forces of Ukraine. According to a lawyer interviewed for the study, access to legal aid for detained military personnel remains problematic. Many are held in combat zones or within military units, making lawyer visits difficult. In addition, the law imposes particularly strict preventive measures for military offenders, leaving detention as the primary option.

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90 Hloviuk I., Drozdov O., Teteriatnyk H., Fomina T., Rohalska V., Zavtur V. Special regime of pre-trial investigation, trial under martial law: scientific and practical commentary on Section IX-1 of the Criminal Procedure Code of Ukraine. Edition 3. 2022: [LINK](#).

91 Resolution No. 630 of the Cabinet of Ministers of Ukraine of 24 June 2023: [LINK](#).

## Impact of War on Detention Numbers

As noted above, by early 2024, Ukraine held about 46,000 detainees (26,000 convicts and 20,000 pre-trial) down from nearly 49,800 before the invasion, due to occupied territories and prisoner mobilisation. Several hundred inmates were pardoned or allowed to enlist under new laws permitting voluntary service for those with short sentences. **Decline in Legal Aid Capacity**

Legal practitioners interviewed for the research note that the overall capacity of the FLA system has diminished sharply. In some regions, such as Kherson, the number of active FLA lawyers has dropped from around 100 to fewer than 10. Many lawyers have left the country or refuse to take high-risk cases, leading to reduced availability of legal aid even in safer regions such as Lviv. Moreover, while certain state institutions are exempt from mobilisation, the legal profession is not, leaving lawyers vulnerable to conscription and further weakening the system's continuity.

## Violations of Lawyers' Professional Rights

Reports from the Ukrainian National Bar Association indicate incidents of lawyers being unlawfully detained, mobilised, or searched by territorial recruitment centres and security services<sup>92</sup>. These actions interfere with professional independence and violate attorney-client privilege. The situation underscores the need for stronger guarantees to protect the legal profession, ensure the uninterrupted provision of legal aid, and maintain access to justice even during wartime.

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<sup>92</sup> Territorial centres of recruitment and social support, which are military administration bodies.

## 6

# **CIVIL SOCIETY AND ACADEMIC ACTORS: KEY PROVIDERS AND MONITORS OF LEGAL AID AND PRISONERS' RIGHTS**

Civil society play a central role in promoting the protection of prisoners' rights and ensuring access to justice in Ukraine. Alongside the state-run free legal aid system, a network of non-governmental organisations, public councils, and academic institutions contributes to monitoring detention conditions, providing legal assistance, and advocating for systemic reforms.

### Ombudsperson

The National Preventive Mechanism (NPM) in Ukraine is a system of regular monitoring of places of detention aimed at preventing torture and other forms of cruel, inhuman, or degrading treatment. Its activities are regulated by the Optional Protocol to the UN Convention against Torture and the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights."

Ukraine has adopted the Ombudsman+ model, which combines the work of the Ombudsman with active participation from civil society. This approach allows independent experts, human rights defenders, representatives of non-governmental organisations, lawyers, and academics to take part in monitoring visits. Within the structure of the Ombudsman's Office, the Department for the Implementation of the NPM is responsible for coordinating these activities.

Under Article 19 of the Optional Protocol<sup>93</sup> the NPM must have the authority to conduct unannounced visits to places of detention, inspect conditions and treatment of detainees, hold confidential interviews with prisoners and staff, analyse relevant legislation, and submit recommendations to public authorities to prevent human rights violations. The NPM Implementation Department consists of 22 staff members and several specialised units.

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<sup>93</sup> Clarifications on the implementation of the national preventive mechanism in Ukraine, The National Preventive Mechanism: [LINK](#).

The Analytics and Public Relations Unit collects and analyses data, prepares reports, and cooperates with human rights organisations. The Department for the Inspection of Controlled Facilities in Law Enforcement, Judicial Bodies and Military Formations monitors detention centres, prisons, temporary holding facilities, police stations, and courts. The Healthcare Monitoring Unit supervises psychiatric hospitals, rehabilitation centres, and medical institutions providing compulsory treatment. Another unit oversees social welfare and educational institutions, including retirement homes and orphanages.

Although the NPM does not directly provide legal aid, its monitoring plays a crucial preventive role. When cases of limited access to legal aid, lack of confidential meeting facilities, or obstruction of contact with lawyers are identified, the NPM records these violations and refers them to the competent authorities for action.

The **Ombudsman+** model also facilitates cooperation with independent experts and non-governmental organisations capable of providing legal assistance. When monitoring reveals cases that require legal intervention, such as the preparation of a complaint or court application, the NPM may refer the matter to appropriate NGOs or lawyers specialising in prisoners' rights.

### Public councils before the Ministry of Justice

Public councils are under the central executive authority responsible for the implementation of state policy in the field of execution of criminal sentences and probation, as well as under its regional departments. Public councils ensure citizen participation in the management of public affairs, exercise civic oversight over the activities of penitentiary institutions, and strengthen cooperation between state authorities and civil society.

The councils are composed of representatives of civil society organisations that voluntarily unite for this purpose, while the secretary of the council represents the respective central or regional authority. The composition of the council is approved by the head of the central body or its regional administration. The members of the councils work on a voluntary basis and without remuneration.

During visits to penitentiary institutions, members of the councils may freely move around the premises and facilities, review official and

statistical documentation, personal files of prisoners and other relevant materials, and communicate with staff and inmates, including confidentially. They may also conduct inspections and audits, submit oral or written requests, and verify compliance with legislation.

If necessary, members of the council may take photographs, make audio or video recordings, and disseminate collected information. They have the right to challenge unlawful actions or omissions of officials, demand their immediate cessation, and request accountability of responsible persons. The institution must provide a written response regarding the measures taken within ten days of receiving such a request.

Interviewed for the purposes of the research, representatives of NGOs – members of the Public Council noted that despite their extensive mandate they often face difficulties trying to access penitentiary institutions or during the visits, notably because there exists no liability for obstruction of their work by the detention facility staff.

### Human rights NGOs

It must be noted that the Ukrainian Helsinki Human Rights Union (UHHRU), and the Kharkiv Human Rights Protection Group (KHPG) play a central role in shaping the development of prison law in Ukraine. Through their long-standing engagement in litigation before domestic courts and the European Court of Human Rights, these organisations have significantly contributed to advancing legal standards on the protection of prisoners' rights, the prevention of ill-treatment, and the enforcement of the Court's judgments.

### The Ukrainian Helsinki Human Rights Union (UHHRU)

The Ukrainian Helsinki Human Rights Union (UHHRU) was established in 2004 as an association of human rights organisations. Today, the Union unites 26 member organisations, several of which operate public reception offices across the country. Nineteen public reception centres currently provide legal assistance and advocacy services at the local level. Although their areas of activity differ depending on the mission of the host organisation, the network operates under common standards and addresses a wide range of legal issues.

The Union primarily focuses on protecting individuals whose rights have been severely violated and on conducting strategic litigation that can influence broader law enforcement practices in Ukraine. Key areas of its work include violations of prisoners' rights, prevention of torture, lack of medical care in detention, and unlawful arrests. UHHRU's structure includes several specialised departments: the Legal Aid Department provides individual advice and representation; the Strategic Litigation Department manages cases that may set important legal precedents; the Analytical Department conducts research on human rights observance; the Education Department organises training for lawyers and the public; and the Advocacy Department cooperates with government and international partners to promote legal reforms. A central focus of the organisation's recent work has been the protection of human rights in detention, including cases of torture, denial of medical care, and the illegal transfer of prisoners from occupied regions such as Kherson and Zaporizhzhia region to the Russian Federation.

### The Kharkiv Human Rights Protection Group (KHPG)

KHPG, founded in 1992, is one of Ukraine's oldest and most influential human rights organisations. It monitors human rights in detention, provides legal assistance, and pursues strategic cases before the European Court of Human Rights. The organisation also contributes to legislative discussions on reforming the penitentiary system, particularly in areas related to prison medicine and detainees' rights. After the Russian invasion in 2022, KHPG expanded its work to include documenting war crimes and searching for deported civilians. The organisation employs lawyers and legal experts who handle cases according to their complexity through its Strategic Litigation Centre, which manages applications to the ECtHR, and a monitoring group that conducts visits to detention facilities.

KHPG prioritises cases involving torture, ill-treatment, and lack of medical care for prisoners suffering from HIV/AIDS, tuberculosis, or cancer. It also works on cases concerning life-sentenced prisoners who have served more than 20 years, advocating for their right to sentence review, and addresses judicial errors, including those stemming from Soviet-era convictions. Case selection is based on the strategic value of the issue, the gravity of human rights violations, and available organisational resources.

## Protection for Prisoners of Ukraine (PPU)

PPU is a Ukrainian non-governmental organisation composed of individuals including former detainees, dedicated to defending the rights of prisoners and advocating for reform in the penitentiary system. Its work encompasses documentation and monitoring of detention conditions, combating torture and ill-treatment, and legal support in cases where prisoners' rights have been violated. Through interviews with former inmates, collaboration with other NGOs, and strategic litigation, the organisation contributes data, legal analysis, and advocacy aimed at systemic change in Ukraine's prison system. Notably, staff members of PPU are also members of Public Council before the MoJ, discussed above, that allows them extensive access to detention facilities when performing their functions.

## Ukraine Without Torture (UWT)

UWT was established in 2016 by monitors of the National Preventive Mechanism to strengthen independent monitoring of detention conditions. Its main goal is to prevent torture and ill-treatment in penitentiary institutions. The organisation conducts regular monitoring visits, trains new NPM monitors, and collaborates with the Ombudsman's Office on human rights research. The main office is in Kyiv, with branches in eleven regions and a membership of over one hundred people, including both full and associate members. Membership is dynamic, as some monitors leave and new experts join.

While Ukraine Without Torture does not provide regular legal aid, it once experimented with offering legal assistance to victims of torture in detention, focusing narrowly on cases involving ill-treatment. This limited the scope of potential beneficiaries, as the organisation does not handle other legal matters such as property or family law. The organisation also operates a hotline that receives calls from victims of war crimes, including detainees. Although it does not provide direct legal aid, it refers callers to partner organisations that can offer legal or psychological support depending on their needs.

## Legal clinics

Legal clinics in Ukraine contribute to the system of free legal aid by offering consultations to socially vulnerable groups, including low-income

individuals and persons in difficult life circumstances. However, their involvement in assisting prisoners and convicts remains limited.

During the research, the Association of Legal Clinics of Ukraine<sup>94</sup> confirmed that none of its member institutions currently provide legal aid to persons in detention. Similarly, representatives of the legal clinic at Yaroslav the Wise National Law University reported that they do not receive requests from prisoners. Their work primarily focuses on civil and administrative issues such as social benefits, inheritance disputes, and housing rights. As legal representation in criminal cases can only be provided by licensed lawyers, the clinic does not handle such matters. There is also no institutional cooperation between university legal clinics and the Bar, nor dedicated grant funding for projects involving legal aid to prisoners.

An exception is the legal clinic of the Penitentiary Academy of Ukraine in Chernihiv, which maintains a dedicated focus on detainees and convicts. The clinic's former head noted that clients are reached through several channels, including monitoring social media groups where relatives of prisoners post requests for assistance, direct email communication, and on-site consultations in detention facilities. Before the introduction of martial law, the clinic also organised "reception days" in pre-trial detention centres, allowing for direct interaction and educational outreach.

### Funding Structures and Sustainability of Legal Aid by NGOs

The financial stability of human rights organisations working in the field of detention and prisoners' rights in Ukraine depends almost entirely on donor and grant support. While this model ensures institutional independence from state influence, it also creates vulnerabilities related to the sustainability of operations, the prioritisation of cases, and exposure to fluctuations in international funding, particularly during wartime.

The Ukrainian Helsinki Human Rights Union operates exclusively through grants, which cover staff salaries, expert fees, legal representation, monitoring, and research activities. This form of financing enables the organisation to remain independent and focus on

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94 As of 2024, the Register of Legal Clinics of Ukraine includes more than 60 clinics in different regions. Association of Legal Clinics: [LINK](#).

socially significant cases. However, limited human and financial resources force the team to prioritise cases carefully. As noted by one of the organisation's representatives, project-based work influences case selection but does not entirely restrict flexibility. The team can pursue cases outside formal projects if they have broader social relevance or raise important systemic issues.

The Kharkiv Human Rights Protection Group also relies solely on donor funding and receives no financial support from the state. Its projects are implemented in cooperation with international partners who cover the costs of monitoring, litigation, and research. Some of the organisation's initiatives, particularly those concerning the rights of life-sentenced prisoners, are supported partly through volunteer work. The organisation maintains strict confidentiality regarding clients' personal data, and publicity of cases is permitted only with the client's consent. If disclosure could endanger a person (such as those suffering from illness or held in occupied territories) the case remains confidential.

Similarly, Ukraine Without Torture operates entirely through project-based funding. The organisation prioritises the reimbursement of logistical expenses for its monitors, such as transportation and accommodation, but financial constraints limit its ability to maintain regular monitoring missions.

### Impact of the War and Donor Withdrawal

Since the start of the full-scale Russian invasion, human rights organisations have faced a sharp increase in workload, primarily related to documenting war crimes, providing legal support to deported prisoners, and ensuring access to justice in conflict-affected regions. At the same time, resources for penitentiary-related work have decreased, and physical access to prisoners has become more difficult due to security concerns and movement restrictions.

A major challenge arose in early 2025 following the suspension of funding from the United States Agency for International Development (USAID) and other American programmes. A directive issued by the U.S. State Department on 24 January 2025 introduced a 90-day audit of foreign aid projects, leading to the temporary suspension or termination

of many<sup>95</sup> By 10 March 2025, approximately 5,200 contracts (about 82% of all active USAID projects) had been cancelled, and nearly a thousand programmes were being transferred to the direct oversight of the U.S. State Department.<sup>96</sup>

This sudden withdrawal has severely impacted Ukrainian human rights NGOs, many of which depend on U.S.-funded projects. The resulting uncertainty threatens the continuity of ongoing initiatives, particularly those supporting prisoners, monitoring detention conditions, and documenting wartime human rights violations.<sup>97</sup>

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95 USAID stopped funding in Ukraine: how it will affect socially important projects and who is "happy" about such changes. ZMINA, 2024. URL: [LINK](#).

96 The United States has officially announced the shutdown of most USAID programmes. ZMINA, 2024: [LINK](#).

97 The interview was conducted at the end of February 2025, before the official shutdown of most USAID programmes was announced.

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