



Home Office

# **Country Information and Guidance**

## **Ukraine: Fear of organised criminal gangs**

**Version 1.0**

**November 2015**

# Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

## Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

# Contents

<b>Preface</b> .....	<b>2</b>
<b>Guidance</b> .....	<b>4</b>
1. Introduction .....	4
1.1 Basis of Claim .....	4
1.2 Other Points to Note .....	4
2. Consideration of issues .....	4
2.1 Is the person’s account credible? .....	4
2.2 Do victims or potential victims of criminal organised gangs constitute a particular social group (PSG)?.....	4
2.3 Is the person at risk of persecution or serious harm? .....	4
2.4 Are those at risk able to seek effective protection? .....	5
2.5 Are those at risk able to internally relocate to escape that risk?.....	6
2.6 If refused, is the claim likely to be certifiable as ‘clearly unfounded’? .....	7
<b>Country Information</b> .....	<b>8</b>
3. Organised crime .....	8
3.1 Nature of organised crime .....	8
3.2 Contract killing.....	11
3.3 Link with politics .....	12
3.4 Illicit drugs .....	13
3.5 Human trafficking .....	14
4. Legal position.....	14
4.1 Law on organised crime .....	14
4.2 Government initiatives .....	15
5. Law enforcement .....	18
5.1 Police.....	18
5.2 Organised crime prosecutions.....	20
5.3 Trends of Organised Crime .....	21
6. Witness protection .....	22
7. Corruption.....	23
7.2 Justice .....	26
7.3 Former President Yanukovich and oligarchic rule .....	27
<b>Version Control and Contacts</b> .....	<b>30</b>

# Guidance

Updated 24 November 2015

## 1. Introduction

### 1.1 Basis of Claim

1.1.1 Fear of persecution or serious harm by criminal organised gangs and lack of effective protection from the authorities.

### 1.2 Other Points to Note

1.2.1 Where a claim falls to be refused, it must be considered for certification under section 94 of the Nationality, Immigration and Asylum Act 2002 as Ukraine is listed as a designated state.

[Back to Contents](#)

## 2. Consideration of issues

### 2.1 Is the person's account credible?

2.1.1 For guidance on assessing credibility, see sections 4 and 5 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also ensure that each asylum application has been checked to establish if there has been a previous UK visa or other application for leave. Asylum applications matched to visas should be investigated prior to the asylum interview. (See [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing. (See [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

### 2.2 Do victims or potential victims of criminal organised gangs constitute a particular social group (PSG)?

2.2.1 Victims or potential victims of organised criminal gangs in Ukraine do not constitute a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention. This is because they do not possess a common immutable/innate characteristic that cannot be changed or a characteristic that is so fundamental to human identity that they should not be required to change it.

2.2.2 For further guidance on particular social groups, see section 7.6 of the see the Asylum Instructions on [Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

### 2.3 Is the person at risk of persecution or serious harm?

2.3.1 The overall presence of traditional organised crime groups in Ukraine is declining rapidly (see [Trends of Organised Crime](#)). Ukrainian organised crime is mostly involved in human trafficking, drug trafficking, cyber crime, corporate raiding and smuggling of products to the European Union. Organised crime gangs involvement in harassment, extortion, protection

rackets, and intimidation has declined in recent years (see [Nature of organised crime](#)).

- 2.3.2 Most organised criminal gangs uncovered by the authorities operated in Crimea and the eastern provinces of Donetsk and Luhansk; and also in the bordering south-eastern province of Zaporizhia and Odessa province on the northern coast of the Black Sea (see [Law enforcement](#)). See also country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#).
- 2.3.3 Contract killings continue to take place in low numbers (less than 20 per year) and the primary motives behind them are said to be failure to pay debts, property distribution/division of spoils as well as the elimination of competitors (see [Contract killing](#)).
- 2.3.4 The country evidence does not indicate that organised criminal gangs in Ukraine pose a real risk of serious harm to the general population. The onus is on the person to establish that a particular criminal gang's behaviour poses a real and serious threat to them personally. In that regard decision makers will need to establish which gang is making the threats, its capabilities, the nature of threat, the profile of the individual and why the gang has an adverse interest in them. In order to show that such a threat exists, it will not suffice to show that a criminal gang dislikes the person or even that it has made threats of violence: it has to be shown that the gang has a real intent to inflict the threatened serious harm and to carry out its threats.
- 2.3.5 For further information on assessing risk, see section 6 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.4 [Are those at risk able to seek effective protection?](#)

- 2.4.1 Ukraine has specific laws against organised crime (see [Law on organised crime](#)) and is restructuring the work of agencies responsible for preventing and fighting organised crime. The reform provides, amongst other things, for the establishment of an additional body in the fight against organised crime - the State Bureau of Investigation - while the Security Service retain the operational and pre-trial investigative powers to fight organised crime (see [Government initiatives](#)).
- 2.4.2 The Ukrainian authorities have made significant progress in breaking up organised criminal gangs and prosecuting those involved (see [Organised crime prosecutions](#)).
- 2.4.3 The authorities in Ukraine are in general willing and able to provide effective protection and a witness protection programme exists depending on the nature and degree of the risk (see [Witness protection](#)).
- 2.4.4 Corruption has in the past been a serious problem in Ukraine. The current government has made progress in its fight against corruption and in October 2014 parliament adopted a package of anticorruption legislation (see [Corruption](#)). The authorities maintained control over law enforcement agencies and took action to investigate and punish abuses committed by the police (see [Police](#)). There is no evidence to indicate that corruption affects

the authorities fight against organised crime gangs as evidenced by number of prosecutions (see [Organised crime prosecutions](#)).

- 2.4.5 Where it is accepted that the person would be at risk of being targeted by an organised criminal gang, the decision maker must assess whether the person concerned will be able to receive assistance from the witness protection programme. Assuming it is decided a person on return will be admitted into this programme, then there is nothing to suggest that programme participants are generally exposed to destitution or unduly harsh living conditions. When referring to persons being "admitted" into the programme, the test is not what the person's preferences are or whether there are hardships that will be involved (e.g. having to live for at least some period of time in difficult circumstances). The question is simply whether, if they sought access to it, they would be admitted to it.
- 2.4.6 Where the person's fear is of ill treatment/persecution at the hands of non state agents - or rogue state agents - then effective state protection is likely to be available. However decision makers must consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.4.7 The situation is however different in Crimea where, after it's annexation by Russia in 2014, the existing laws of Russia came into force. Similarly under Russian influence, persons in the so-called Luhansk and Donetsk People's Republics are unable to access the legal protections provided in Ukrainian law (see country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#)).
- 2.4.8 For further information on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

## 2.5 [Are those at risk able to internally relocate to escape that risk?](#)

- 2.5.1 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.
- 2.5.2 Decision makers need to take account of the nature of the threat and the reach of the criminal gang making those threats. In general where a person does encounter a localised threat they may be able to avoid this by moving elsewhere in Ukraine, but only if the risk is not present there and if it would not be unduly harsh to expect them to do so.
- 2.5.3 The onus is on the person to demonstrate why they believe they would be unable to relocate to a specific town/city to mitigate any risk.
- 2.5.4 For further information on considering internal relocation and the factors to be taken into account, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#)
- 2.5.5 For guidance on relocation from Crimea, Luhansk or Donetsk see country information and guidance on [Ukraine: Crimea, Donetsk and Luhansk](#).

[Back to Contents](#)

- 2.6 If refused, is the claim likely to be certifiable as ‘clearly unfounded’?
- 2.6.1 Where a claim falls to be refused, it is likely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002 because effective state protection is available.
- 2.6.2 For further information on certification, see the [Appeals Instruction on Certification of Protection and Human Rights claims under Section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

### 3. Policy Summary

- 3.1.1 **The presence of traditional organised crime groups in Ukraine is declining. Those organised gangs which do exist are mostly involved in human trafficking, drug trafficking, cyber crime, corporate raiding and smuggling of products to the European Union.**
- 3.1.2 **Ukraine has specific laws against organised crime – including a witness protection programme - and the authorities have made significant progress in breaking up organised criminal gangs and prosecuting those involved.**
- 3.1.3 **The authorities in Ukraine are in general willing and able to provide effective protection.**
- 3.1.4 **Internal relocation is likely to be an option where there is a localised threat.**
- 3.1.5 **Where a person establishes a real risk of serious harm from an organised criminal gang and that effective state protection or internal relocation is not available then the person would be entitled to humanitarian protection. This is because victims of organised crime are not regarded as a particular social group within the meaning of the 1951 UN Refugee Convention.**

**Where a claim falls to be refused it is likely to be certifiable as ‘clearly unfounded’.**

[Back to Contents](#)

# Country Information

Updated 24 November 2015

## 4. Organised crime

### 4.1 Nature of organised crime

4.1.1 In an information request response in September 2012 based on various sources, the Immigration and Refugee Board of Canada stated: 'Sources report that Ukrainian organized crime is involved in trafficking in persons, drug trafficking, racketeering and smuggling of products to the European Union. However ... harassment, extortion, protection rackets, and intimidation with connections to organized crime have declined. Various sources state that organised crime has connections with government authorities.'<sup>1</sup>

4.1.2 In a study published in April 2015 the Organized Crime Observatory reported:

'Organized crime in Ukraine has matured from the street-gangster type shootouts of the 1990s to corporate raiding and the development of large-scale capital-based oligarchic structures. Many of the surviving criminal leaders have gone legal and are now "legitimate businessmen" and/or politicians, who use media acquisitions, the new "anti-libel law" and parliamentary immunity to discourage anyone from taking a close look at their past and at their current activities.

'And the state security apparatus has been sufficiently revived so that Ukraine no longer has the organized criminal bands of the 1990s which were able to smuggle sophisticated weapons or large quantities of drugs without little or no involvement from the state. Traditional high-level organized criminals (vory-vzakone, or "thieves-in-law") are on the sidelines, playing little role in "high politics."

'To some extent, traditional organized criminal activity has also been taken over by the representatives of formal institutions such as the police and other security services. The involvement of law enforcement personnel in organized crime has become such an acute issue that MPs started discussions on criminalizing "werewolves in epaulettes", a term that has often been used to describe various configurations of police-dominated criminal organizations.'<sup>2</sup>

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<sup>1</sup> Canada: Immigration and Refugee Board of Canada, Ukraine: Crime situation, including organized crime; police and state response; availability of witness protection, 17 September 2012, UKR104176.E, available at: <http://www.refworld.org/docid/507291dd2.html>. Date accessed: 21 August 2015

<sup>2</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. 1- Trends in illegal activities <http://www.o-c-o.net/wp-content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf> Date accessed: 21 August 2015



4.1.3 The April 2015 report by the Organized Crime Observatory<sup>3</sup> identified the main areas of organised criminal activity:

- Narcotics. Drugs were the item most frequently smuggled through Ukraine in 2012 (70% of all smuggling.)
- Counterfeiting and illicit goods trafficking. Production of counterfeit pharmaceuticals are a serious problem in Ukraine as in most of the former Soviet Union, where the prevalence rate of counterfeit pharma is estimated to be approximately 20%.
- Tobacco. Ukraine plays a central role in supplying the EU market with counterfeit tobacco products.
- Human trafficking. Human smuggling remains a major problem. IOM regards Ukraine as the top country with human trafficking problems since the number of victims seeking help from the organization is the highest.
- Contract killing (see section on contract killing below).
- Cybercrime. The Ukrainian Ministry of Interior report that more than 2 thousand cases of Internet fraud were registered in 2012. The most prevalent schemes are the fraudulent sale of non-existent goods, online Ponzi schemes, identity theft, and online banking theft from the accounts belonging to individuals and companies.
- Corporate raiding. The origins of “reyderstvo” are tied to organized crime during the late Soviet and early post-Soviet period, when owners of kiosks, small cooperatives and private businesses needed to pay off local organized crime groups to provide a “roof” (krysha) to protect them from having their businesses and assets taken over by corrupt officials or criminal groups.
- Weapons trading. Between 1992 and 1998, \$32 billion worth of heavy weapons, small arms, ammunition and other military equipment is estimated to have disappeared from Ukraine’s post-Soviet stores. One major node along illicit weapons trafficking routes has traditionally been the port of Odessa, out of which notorious arms trader Leonid Minin operated in the 1990s in concert with Odessa organized crime boss Aleksandr Angert (criminal nickname “Angel”) to deliver weapons to Charles Taylor in Liberia, the RUF, and others.

4.1.4 An article in The Herald Scotland published in February 2015 stated: ‘During my time in eastern Ukraine last year, many Ukrainians I met spoke of the significant role being played in the current conflict by organised crime and gangsters.

‘As Professor Mark Galeotti at New York University's Centre for Global Affairs, recently pointed out, Ukraine headed into this current crisis already

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<sup>3</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. 1- Trends in illegal activities <http://www.o-c-o.net/wp-content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf> Date accessed: 21 August 2015

undermined and interpenetrated by criminal structures closely linked to cabals of corrupt officials and business oligarchs.

'On numerous occasions since hostilities in the region began there has been abundant evidence of many paramilitary commanders both within the separatist and anti-separatist ranks "who have spotted an opportunity to convert underworld might into upperworld power."

'As early as the 1990's Ukraine, like Russia, saw a huge upsurge in organised crime. During this period the gangsterism of the streets was matched by the rise of a new elite determined to seamlessly fuse political, economic, and criminal enterprises.

'Professor Galeotti points to one example in the Moscow-based Solntsevo network, Russia's largest and most powerful mob, which has a long-standing relationship with the "Donetsk clan," an infamous political-criminal circle in the eastern Ukrainian city of the same name and scene of much recent fighting.

'What has to be borne in mind here is that is that [sic] it is not only with Russia that many of these Ukrainian mobsters have become aligned. Some too have found common cause with the country's extreme right that played its part in the "Euromaidan" protests in Kiev and recent fighting on the frontlines of eastern Ukraine. Oleksandr Muzychko, the Nationalist Right Sector leader, who was killed in a gun battle with security forces in Ukraine last March [2014], was wanted for membership of an organised crime gang...

'Gangsters, very rich and very powerful are already key players in the conflict in eastern Ukraine. Keeping the region unstable would not only provide them with even greater leverage and influence on the ground, but open up new business opportunities. Already the sea port of Odessa is an infamous trafficking conduit through which vast quantities of illegal Europe-bound Afghan heroin transits. In western Ukraine meanwhile, organised crime gangs there are equally active moving drugs and people and other contraband. Last March [2014] a Donetsk prosecutor warned that "through crime networks (Moscow) has an army of hoodlums it can use."<sup>4</sup>

#### 4.1.3 IB Times published the following in April 2015:

'In the wake of the Maidan revolution, east Ukraine has descended into chaos: providing fertile ground for organised crime gangs to extend their influence. With the attention of Ukrainian authorities focussed on their conflict with pro-Moscow rebels, organised criminals have been able to consolidate and expand lucrative human trafficking and drugs smuggling routes.

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<sup>4</sup> Herald Scotland. Organised crime could be the undoing of the Ukraine ceasefire, dated 13 February 2015.  
[http://www.heraldscotland.com/news/13201400.Organised\\_crime\\_could\\_be\\_the\\_undoing\\_of\\_the\\_Ukraine\\_ceasefire/](http://www.heraldscotland.com/news/13201400.Organised_crime_could_be_the_undoing_of_the_Ukraine_ceasefire/) Date accessed: 13 August 2015.

'It is alleged that Russian organised crime figures have served as agents for Russia in east Ukraine, where they have been used to foment pro-Russian unrest, and transport arms and supplies to rebel groups...

'After the collapse of the Soviet Union organised crime exploded in Russia, and crime gangs extended their influence into western Europe, the US and beyond. Experts argue that there are thousands of loosely connected criminal gangs operating in the former Soviet Union, and it's an error to think of them as structured organisations on the model of the Sicilian mafia or the Japanese Yakuza.

"They are as much as anything else clubs and contact markets, comprising inner core groups tied to key figures, semi-autonomous other gangs, local franchises, semi-independent contractors, corrupt patrons and some-time customers of their services. It is often very hard to say where one ends and another begins, or who is 'in' which," writes organised crime expert Mark Galleotti.<sup>5</sup>

## 4.2 Contract killing

4.2.1 According to the Organized Crime Observatory's April 2015 report: 'Even though corporate raiding has become the dominant form of property redistribution over the past several years, violent means are still used. A number of businessmen have been assassinated in Crimea, Odessa and Kharkiv. This also means that the demand for criminal actors specializing in violence is still high.

'Contract killings are usually more difficult to conceal and they are captured in official statistics, except in case where they are disguised as car accidents, suicides, etc. The Ministry of Interior registered a total of 147 contract assassinations from 2007-2012 (30 in 2007, 30 in 2008, 16 in 2009, 25 in 2010, 28 in 2011 and 18 in 2012).

'According to the Ministry, the primary motives were the failure to pay debts, property distribution/division of spoils and elimination of business competitors. These contract killings differed from the assassinations of the 1990s when the turf wars mainly eliminated the representatives of the traditional underworld (thieves-in-law) and emerging political-industrial groupings would target their rivals from opposing camps in politics and business.

'More recently, young businessmen have been assassinated who were not the benefactors of post-Soviet murky privatisation deals but, instead, started their rise over the past several years. This suggests that the on-going violence is more of a battle over newly emerging market opportunities, than a settling of old scores from the chaotic years of post-Soviet privatisation.

'Two contract killings in 2013 - Roman Mikita, the partner and director of IT company NRAVO, a leader of the mobile phone gaming market, who was

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<sup>5</sup> IB Times. 'Gangs of Russia: Ruthless mafia networks extending their influence,' dated 9 April 2015. <http://www.ibtimes.co.uk/gangs-russia-ruthless-mafia-networks-extending-their-influence-1495644>  
Date accessed: 14 August 2015.

stabbed to death in Lviv, and Yaroslav Bisaga, the general director of Omega Avtopastavka, a leading importer of auto parts who was shot in Kharkiv are good examples of this new wave.

'Government representatives are also still targeted, for instance in the period 2010-2013 three officials, two mayors of resort towns and one senior member of the village council in Crimea were slain, reflecting the high level of the criminalisation of politics in the region as well as the on-going struggle for control over its lucrative real estate and resources.<sup>6</sup>

### 4.3 Link with politics

#### 4.3.1 According to the April 2015 Organized Crime Observatory's report:

'On the surface, today's Ukraine has moved past the rule of organized crime groups and the highly publicized contract killings of the lawless 1990s. But the small group of individuals who own much of Ukraine's wealth today almost all got their start in this lawless era, and most of them amassed their early fortunes through illicit activities, alliances with organized crime groups, and theft of state assets...Over time, the tools of economic capture have become more sophisticated: instead of armed gangs, we see lawyers and notaries creating fraudulent ownership claims and falsified proxy battles, using multiple layers of shell companies served by off-shore banks. Still, the threat of violence underlies much of the corporate raiding that continues today, even if it has receded into the background. And self-enrichment remains the primary goal for many who serve in Ukraine's Parliament and at the highest levels of government, for whom conflicts of interest represent business opportunities, rather than moral dilemmas.

'The alliance between the oligarchs and the state has become entrenched at the highest levels of government, while at the local level, judges, police, local government officials and politicians have organized themselves into a corrupt network of mutual enrichment at the public expense. Where does organized crime end and organized corruption begin? Ukraine offers evidence that it is not really possible to draw a distinction.

'While most post-Soviet states have developed an oligarchic class that owns a high proportion of the country's wealth, the situation in Ukraine appears to be one of the more extreme examples. According to our best estimates the 50 richest Russians own assets valued at 16% of Russia's GDP. In Ukraine the same group holds assets valued at 45% of the country's GDP. This fact has a huge impact on the country's politics, economy, and future development, not to mention the wellbeing of its citizens.<sup>7</sup>

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<sup>6</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. 1- Trends in illegal activities. Contract killing. <http://www.o-c-o.net/wp-content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf> Date accessed: 21 August 2015

<sup>7</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. History of organised crime in Ukraine. <http://www.o-c-o.net/wp->

4.3.2 According to the Global Initiative Against Transnational Organised Crime: 'The Russian annexation of the Crimea is clearly proving a troublesome geopolitical issue, but it also has serious potential implications for the criminal environment in the region and conceivably even globally.

'Crimea has long had a reputation as a relatively criminalized peninsula, not least as its local authorities resented their subordination to Kiev and worked often poorly or at odds with national law enforcement. The presence of the Russian Black Sea Fleet—and consequently regular military traffic to and from the Russian mainland exempted by treaty and law from Ukrainian and Russian customs checks alike—contributed to a thriving smuggling economy. Military supply and personnel convoys were associated with the traffic in drugs, stolen goods and in a few cases illegal migrants into Ukraine, largely with impunity, under the protection of higher military authorities.

'First of all, there are serious questions about the commitment of the local authorities to a serious campaign against well-entrenched ethnic Russian gangs. New Crimean premier Sergei Aksenov has been widely identified as a former gangster from the 'Salem' organized crime group, who went by the nickname 'Goblin' in the 1990s (the only time he tried to deny the claim in court, his suit was dismissed). Regardless of the truth of the specific allegations made against Aksenov (and other senior Crimean politicians, who have been connected with organized crime), powerful gangs of the 1990s such as 'Salem' and their main Simferopol-based rival, the 'Bashmaki' have evolved into powerful circles connecting business, political and criminal interests.

'According to Viktor Shemchuk, its chief prosecutor, "Every government level of Crimea was criminalized." To a large extent they managed this by maintaining close links with local law enforcement agencies—an Interior Ministry official in Kiev once disgustingly told me that "in Crimea, the police are the krysha" ("roof", a criminal protector)—and by leveraging links with Russia, especially its powerful crime networks. The infamous Moscow-based Solntsevo group has run smuggling operations through Sevastopol, for example, as have many others.'<sup>8</sup>

#### 4.4 Illicit drugs

4.4.1 CIA World Factbook provided the following information about illicit drugs in Ukraine, which was updated in August 2015:

'limited cultivation of cannabis and opium poppy, mostly for CIS [Commonwealth of Independent States] consumption; some synthetic drug production for export to the West; limited government eradication program; used as transshipment point for opiates and other illicit drugs from Africa,

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[content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf](http://content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf) Date accessed: 21 August 2015

<sup>8</sup> Global Initiative Against Transnational Organised Crime. Analyzing Organized Crime. April 2014. <http://www.globalinitiative.net/download/global-initiative/Analyzing%20Organized%20Crime%20-%20%20April%202014.pdf> Date accessed: 21 August 2015

Latin America, and Turkey to Europe and Russia; Ukraine has improved anti-money-laundering controls, resulting in its removal from the Financial Action Task Force's (FATF's) Non-cooperative Countries and Territories List in February 2004; Ukraine's anti-money-laundering regime continues to be monitored by FATF.<sup>9</sup>

4.4.2 The US Department of State's 2015 International Narcotics Control Strategy Report, dated 18 March 2015, stated:

'Although Ukraine is not a major drug producing country, its location astride several important drug trafficking routes into Western Europe leaves it vulnerable as an important transit country. Ukraine's numerous ports on the Black and Azov seas, its extensive river routes, and its porous northern and eastern borders make Ukraine an attractive route for drug traffickers into the European Union's illegal drug market. The illegal annexation of Crimea by Russia and the Russian-sponsored conflict in eastern Ukraine may present future challenges for Ukrainian law enforcement in terms of drug interdiction.

'Domestic drug abuse continues to focus on drugs made from illicit drug crops (cannabis and opium poppy) grown in the region, which account for approximately 90 percent of the total drug market in Ukraine. The use of synthetic drugs and psychotropic substances, especially amphetamine-type stimulants (ATS), continues to increase. Most opiates and cannabis products consumed in Ukraine are either locally produced or supplied from Russia, Belarus, and Moldova. Synthetic drugs including ATS, methamphetamine and MDMA (ecstasy) are trafficked into the Ukraine from Poland, the Baltic states, and the Netherlands.

'The U.S.-Ukraine Mutual Legal Assistance Treaty came into force in February 2001. The U.S. and Ukraine signed a memorandum of understanding on law enforcement assistance in 2002. This memorandum provided for U.S. assistance to help the Government of Ukraine bring its law enforcement institutions up to international standards.<sup>10</sup>

#### 4.5 Human trafficking

4.5.1 See country information and guidance on Ukraine: Women fearing gender based violence.

[Back to Contents](#)

## 5. Legal position

### 5.1 Law on organised crime

5.1.1 See [Law of Ukraine on the organizational and legal foundations of struggle against corruption and organized crime](#).

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<sup>9</sup> CIA World Factbook. Europe; Ukraine (Transnational issues; Illicit drugs), last updated on 11 August 2015. <https://www.cia.gov/library/publications/the-world-factbook/geos/up.html> Date accessed: 14 August 2015.

<sup>10</sup> US Department of State. 2015 International Narcotics Control Strategy Report; Ukraine, dated 18 March 2015 (Introduction). <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/239023.htm> Date accessed: 14 August 2015.

## 5.2 Government initiatives

5.2.1 The European Commission noted the following in March 2015: ‘As regards preventing and fighting organised crime, the 2011 strategy for state policy on fighting organised crime was replaced by a new state strategy on combating organised crime, covering the period until 2017.’<sup>11</sup>

5.2.2 In May 2015 the European Commission reported that:

‘Ukraine has begun a complex reform of the Ministry of Interior, which has restructured the work of agencies responsible for preventing and fighting organised crime. In February 2015, parliament adopted a law on the reform of the interior bodies. Accordingly, GUBOZ [The Ukraine Office for Combating Organised Crime], the main department for combating organised crime, has been abolished. In the reform process, along with the Ministry of Information, the Security Service retained the operational and pre-trial investigative powers to fight organised crime. The reform provides for the establishment of an additional body in the fight against organised crime — the State Bureau of Investigation.

‘Based on the above findings, the benchmark is deemed to be only partially achieved but with good prospects for further progress. It is recommended that the Ukrainian authorities:

- Ensure an overall vision and direction of the reform process, and consolidate existing action plans into a single, well-structured action plan that enables progress to be tracked.
- Establish a criminal justice approach for both law enforcement and prosecution forces so as to determine priorities and to distribute resources according to priorities.
- Take steps to reform the investigative process so as to establish a clear chain of responsibilities for the various steps of the investigation and prosecution process.
- Drastically reduce the pre-trial investigative powers currently held by the Security Service for intelligence and counter-intelligence.
- Ensure the specialisation of judges and prosecution for organised crime cases.
- Ensure the effectiveness of a specialised “witness protection unit” according to international standards.’<sup>12</sup>

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<sup>11</sup> European Commission: Implementation Of The European Neighbourhood Policy In Ukraine; Progress In 2014 And Recommendations For Actions Accompanying The Document Joint Communication To The European Parliament (p 16), The Council, The European Economic And Social Committee And The Committee Of The Regions [SWD(2015) 74 final], 25 March 2015 (available at [http://www.ecoi.net/file\\_upload/1226\\_1427898393\\_ukraine-enp-report-2015-en.pdf](http://www.ecoi.net/file_upload/1226_1427898393_ukraine-enp-report-2015-en.pdf) Date accessed: 13 August 2015.

<sup>12</sup> European Commission. Report from the Commission to the European Parliament and the Council. Fifth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation. 8 May 2015. 2.3.1.1. Preventing and fighting organised crime. [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth\\_progress\\_report\\_on\\_the\\_implementation\\_by\\_ukraine\\_of\\_the\\_action\\_plan\\_on\\_visa\\_liberalisation\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth_progress_report_on_the_implementation_by_ukraine_of_the_action_plan_on_visa_liberalisation_en.pdf) Date accessed: 21 August 2015

5.2.3 The US Department of State's 2015 International Narcotics Control Strategy Report provided the following information on drug control, policies and trends:

'1. Institutional Development

'Ukraine has comprehensive anti-drug legislation in place consistent with international standards. In 2014, the Government of Ukraine continued to implement the government anti-drug policy adopted in 2010, including an action plan to address drug abuse and trafficking in 2011-2015. The goal is to pursue a balanced but persistent policy of prevention, control, and enforcement. Some of the policy objectives have been adequately addressed; others were accomplished with only limited success, particularly due to insufficient resources.

'2. Supply Reduction

'Poppy straw and hemp are illegally produced and consumed locally, with the surplus trafficked to Russia, Belarus, and Moldova. These same drugs are also trafficked into Ukraine from Russia, Belarus, and Moldova. Opium poppy is grown predominantly in western, southwestern, and northern Ukraine, while hemp cultivation is concentrated in the east and south. Poppy and cannabis are controlled plants and can be grown only by licensed farms, according to annually-determined government quotas. However, many cases of illegal cultivation in small quantities by private households are discovered. The MOI Drug Enforcement Department regularly eradicates such illegal plantations.

'Ukraine is predominantly a transit country for heroin. Originating primarily in Afghanistan, heroin is trafficked into Ukraine mostly through Russia, the Caucasus, and Turkey. Shipments are usually destined for Western Europe, and arrive by road, rail, or sea, which is perceived as less risky than air or mail shipment and permits traffickers to move larger quantities...

'Trafficking in synthetic drugs and psychotropic substances is growing, reflecting the general trend in Europe. Synthetic drugs are brought into the country mostly from Europe, especially from Poland, Lithuania, and the Netherlands. The price of these drugs is significantly lower than that of heroin and cocaine and therefore the drugs are attractive to young addicts. Domestic production of synthetic drugs in undercover labs also continues despite persistent efforts by law enforcement.

'Through the first nine months of 2014, the MOI's police force seized approximately 2.8 metric tons of various drugs. The SBU eliminated seven organized drug trafficking groups and 13 drug labs.

'3. Drug Abuse Awareness, Demand Reduction, and Treatment

'The number of registered drug users in Ukraine was 76,000 as of October 2014, of which 40,739 were medically diagnosed addicts and the rest were temporarily listed by police for singular or occasional drug consumption. Various experts, however, estimate the total number of actual drug addicts in Ukraine as ranging from 300,000 to 500,000.



'Marijuana and hashish are popular with young people, but opium straw extract remains the drug of choice for addicts. The popularity of this drug is due to its low cost (approximately \$5 per 1 milliliter dose) and simple production methods. The use of synthetic drugs is rising, particularly with young people, exacerbated by rapid growth in local production. Cocaine and heroin are still too expensive for most Ukrainian drug users.

#### '4. Corruption

'The Government of Ukraine acknowledges that corruption remains a major problem due to the existence of a bribe-tolerant mentality and the lack of law enforcement capacity to fight it. The new government has declared its commitment to tackle corruption, and several new bills have been signed into law to tackle corruption and deny government positions to officials affiliated with the former regime of President Viktor Yanukovich. However, the number of successful prosecutions of corruption cases thus far remains low.

'Ukraine is a party to the UN Convention against Corruption. As a matter of policy, the Ukrainian government does not encourage or facilitate illicit production or distribution of narcotic or psychotropic drugs or other controlled substances, or the laundering of proceeds from illegal drug transactions...'<sup>13</sup>

#### 5.2.4 The US Department of State's 2015 International Narcotics Control Strategy Report concluded as follows:

'Ukraine's anti-drug legislation is well developed, and the country's government is politically committed to responding to evolving criminal threats. The Government of Ukraine attaches great importance to preventing drug addiction, but efforts in this area have oftentimes been under-resourced. Interagency coordination among relevant law enforcement agencies could also be further improved.'<sup>14</sup>

#### 5.2.5 In May 2015 the European Commission reported that:

'The National Anti-Drug Strategy and its related action plan is being further implemented through the second action plan for the period 2015-20. On 25 March 2015, regulations on the Ministry of Health and on the State Medical Drug Service were approved by resolution of the government. These regulations confirmed the abolition of the State Service and the transfer of drug policy functions to the Ministry of Health. The implementation of the Memorandum of Understanding with the European Monitoring Centre for Drugs and Drug Addiction has been in force since 2010 and is fully implemented.

'Based on the above findings, the anti-drug benchmark is deemed to be almost achieved. It is recommended that the Ukrainian authorities:

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<sup>13</sup> US Department of State. 2015 International Narcotics Control Strategy Report; Ukraine, dated 18 March 2015 (Section B. Drug control, policies and trends). <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/239023.htm> Date accessed: 14 August 2015.

<sup>14</sup> US Department of State. 2015 International Narcotics Control Strategy Report; Ukraine, dated 18 March 2015 (Section D. Conclusion).. <http://www.state.gov/j/inl/rls/nrcrpt/2015/vol1/239023.htm> Date accessed: 14 August 2015.

- Refine the action plan in order to include deadlines for milestones and prepare an
- impact assessment of planned actions.
- Consider consolidating provisions regulating drugs issues in a single legal instrument, for instance a Drugs Code.
- Ensure sufficient measures aimed at detection and impounding of proceeds of criminal activity.<sup>15</sup>

[Back to Contents](#)

## 6. Law enforcement

### 6.1 Police

#### 6.1.1 The US Department of State (USSD) Human Rights report covering 2014 stated that:

‘The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The Security Service of Ukraine (SBU) is responsible for all state security, non-military intelligence, and counter-intelligence. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service, formed in June, exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers.

‘Civilian authorities maintained control over law enforcement agencies and took action to investigate and punish abuses committed by security forces. During the first two months of the year, the Ministry of Internal Affairs, the SBU, and other law enforcement agencies often acted with impunity and violence to suppress the antigovernment demonstrations on the Maidan to maintain President Yanukovich’s authority. In the months after the new government took power, charges of impunity and abuses by security forces decreased, according to the parliamentary ombudsman for human rights.

‘Under the law members of parliament have authority to conduct investigations and public hearings into law enforcement problems. The parliamentary ombudsman for human rights may also initiate investigations into abuses by security forces. In January [2014] members of parliament created a temporary commission to investigate mass killings, violence, and other abuse against activists on the Maidan. Authorities sent materials

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<sup>15</sup> European Commission. Report from the Commission to the European Parliament and the Council. Fifth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation. 8 May 2015. 2.3.1.5. Drugs.  
[http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth\\_progress\\_report\\_on\\_the\\_implementation\\_by\\_ukraine\\_of\\_the\\_action\\_plan\\_on\\_visa\\_liberalisation\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth_progress_report_on_the_implementation_by_ukraine_of_the_action_plan_on_visa_liberalisation_en.pdf) Date accessed: 21 August 2015

gathered as part of the investigation to the Prosecutor General's Office in June [2014].<sup>16</sup>

- 6.1.2 The US Department of State's Country Reports on Human Rights Practices for 2014, published in June 2015, stated: 'By law authorities may detain a suspect for three days without a warrant, after which time a judge must issue a warrant authorizing continued detention.

'Prosecutors must bring detainees before a judge within 72 hours, and pretrial detention should not exceed six months for minor crimes and 12 months for serious crimes. Under the law citizens have the right to challenge an arrest in court or by appeal to a prosecutor. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures.'<sup>17</sup>

- 6.1.3 The same source also noted: 'The constitution and law prohibit torture and other cruel punishment. The courts cannot use confessions and statements made to police by persons in custody under duress as evidence in court proceedings. There were reports, however, police and other law enforcement officials abused and at times tortured persons in custody to obtain confessions.

'During the first eight months of the year, the Prosecutor General's Office opened 8,236 criminal investigations into alleged torture or degrading treatment by police. Of that number, authorities forwarded 1,424 cases of alleged mistreatment to courts, including 28 cases specifically alleging torture or degrading treatment involving 43 law enforcement officers.

'Through September [2014] the Prosecutor General's Office opened criminal investigations involving 1,236 other police officers, mainly related to corruption and abuse of power.

'According to the Ministry of Internal Affairs, during the first nine months of the year [2014], one police officer was convicted of torture and inhuman treatment and criminal proceedings against two others were initiated. Disciplinary actions were imposed against an additional 120 officers.'<sup>18</sup>

- 6.1.4 In a September 2014 report, the UN High Commissioner for Human Rights stated:

'Complaints and allegations of torture or ill-treatment are examined by the Public Prosecutor's office which is reluctant to pursue complaints and,

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<sup>16</sup> US Department of State, Country Report on Human Rights Practices 2014, Ukraine, 26 June 2015, Section 1d. Role of the Police and Security Apparatus.

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236588> Date accessed: 21 August 2015

<sup>17</sup> US Department of State, Country Report on Human Rights Practices 2014, Ukraine, 26 June 2015, Section 1d. Arrest Procedures and Treatment of Detainees

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236588> Date accessed: 21 August 2015

<sup>18</sup> US Department of State, Country Report on Human Rights Practices 2014, Ukraine, 26 June 2015, Section 1c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236588> Date accessed: 21 August 2015

through its work on criminal investigations, has very close links with police forces. Article 216 of the new CCP provides for the creation within five years (as of 2012) of a State Bureau of Investigation to investigate allegations of human rights violations committed by judges, law enforcement officers and high-ranking officials. However, no progress has yet been made towards its creation.

‘There has been a culture of effective impunity in Ukraine for the high level of criminal misconduct, including torture and extortion, often committed by the police in the course of their work. Structural shortcomings, widespread corruption, close functional and other links between prosecutors and police, non-existent or flawed investigations into criminal acts committed by the police, harassment and intimidation of complainants, and the subsequent low level of prosecutions all fuel this lack of accountability for human rights violations. There is a large number of detentions, many of which are not registered. Allegations of torture may not be investigated effectively and promptly and complaints of such violations were generally ignored or dismissed for alleged lack of evidence.’<sup>19</sup>

6.1.5 In December 2014, the UN Committee against Torture stated:

‘Recalling its previous concluding observations (CAT/C/UKR/CO/5, para. 8), the Committee is concerned that not all the elements of the crime of torture, as defined in article 1 of the Convention, have been incorporated into the Criminal Code, notably the prosecution under article 127 of the Criminal Code of acts of torture inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity and the element of discrimination, which may create loopholes for impunity, as outlined in the Committee’s general comment No. 2 (2007) on the implementation of article 2 by States parties (art. 1).

‘As stated in previous concluding observations, the Committee is concerned that while article 127 of the Criminal Code relates to torture, acts amounting to torture are often prosecuted under articles 364 (abuse of authority or office), 365 (excess of authority or official powers) and 373 (compelling to testify) of the Criminal Code, which do not provide for the criminal liability of all individuals who inflict torture. It is also concerned that torture is punishable by two to five years of imprisonment and at the low number of persons convicted for having committed acts of torture (arts. 2 and 4).’<sup>20</sup>

## 6.2 Organised crime prosecutions

6.2.1 According to the Organized Crime Observatory’s April 2015 report, the General Prosecutor of Ukraine commented as follows on law enforcement activities for 2013:

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<sup>19</sup> UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Ukraine, A/HRC/27/75, 19 September 2014, Para 49 and 52. available at: <http://www.refworld.org/docid/5436a7dd4.html> Date accessed: 21 August 2015

<sup>20</sup> UN Committee against Torture. Concluding observations on the sixth periodic report of Ukraine. 12 December 2014. Para 7 – 8 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/UKR/CO/6&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/UKR/CO/6&Lang=En) Date accessed: 21 August 2015

'The General Prosecutor of Ukraine introduced a balanced approach in regard of the incrimination of qualified signs of the commission of a crime within organized groups and criminal organizations, preventing the occurrence of such qualifications for insignificant facts. As a result, law enforcement authorities in the current year, destroyed 188 (274) criminal gangs, including 27 with corrupt connections.

'Most of the groups exposed were in Donetsk (14), Odessa (14), Luhansk (12), Zaporizhia oblasts and Crimea (10). A third of the neutralized groups (67 of 188) operated in State agencies and administration with corrupt and interregional, transnational and international ties, in the sphere of economy.

'Overall by law enforcement departments to courts were sent 197 acts criminal indictments proceedings and charges were brought against 709 members of criminal gangs that committed 1,500 criminal offenses. Of which "Prokuratura" completed investigations in 19 proceedings, investigative units MIA - 160, SBU – 11, Ministry of income and charges Ukraine - 7.

'In proceedings of the categories were identified 592 million USD. of property damage, hereby were withdrawn and recovered funds and assets of 111 million. In order to ensure reimbursement, the property of the suspects, worthing over 542 million USD, were seized and claims were filed against them for the amount of 171 million USD.

'Thanks to the effective implementation by the prosecutors of the constitutional functions of public prosecution in the courts of the enactment of sentences 191 criminal proceedings were examined in this category.

'Most cases were in Donetsk (20), Luhansk (17), Kharkiv, Poltava (14) and Odessa (15) regions. Was provided appropriate approach to penalize signs of organized crime, which was confirmed in 187 (98%) cases examined by courts, which is one of the main criteria for evaluating the work of the special forces, investigators and prosecutors.<sup>21</sup>

### 6.3 Trends of Organised Crime

#### 6.3.1 The April 2015 Organized Crime Observatory's report stated:

'According to official statistics, which are quite detailed in the topic, the presence of "classical" organized crime groups in Ukraine is declining rapidly. Detailed statistics show an evolution of -34.2% which is a considerable achievement, given that the country has suffered extensively at the hands of organized crime groups for over a decade. This trend is confirmed by local and foreign observers and specialized agencies.<sup>22</sup>

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<sup>21</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. 2.1.4. State of combating organized crime and corruption in 2013. <http://www.o-c-o.net/wp-content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf> Date accessed: 21 August 2015

<sup>22</sup> Organized Crime Observatory. Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?. April 2015. Trends in organised crime in Ukraine. <http://www.o-c-o.net/wp-content/uploads/2013/11/Ukraine-and-the-EU-Overcoming-criminal-exploitation-toward-a-modern-democracy.pdf> Date accessed: 21 August 2015

## 7. Witness protection

- 7.1.1 The Immigration and Refugee Board of Canada stated in an information request response in September 2012: ‘Under Ukrainian law, witness protection is provided by the 1994 Law on the Protection of Individuals Involved in Criminal Proceedings, which was amended in 2003 (Ukraine 1994). According to the law, the following individuals are entitled to protection:
- a. An individual informing a law enforcement agency on a criminal offence or otherwise involved in or with the detection, prevention, termination, and exposure of criminal offences;
  - b. Victim or his/her proxy involved in a criminal case;
  - c. Suspect, defendant, defence counsel and [other] legal representatives;
  - d. Plaintiff, respondent and their representatives in the given lawsuit on reimbursement of damage incurred by a criminal offence;
  - e. Witness [of the prosecution];
  - f. Experts, translators, and witnesses at official searches;
  - g. Members of families and close relatives of individuals listed in sub clauses (a) to (f) hereinabove provided these individuals are being bullied or exposed to other unlawful actions as participants in criminal proceedings. (Art. 2)

‘Decision on the protection measures is made by the investigating authority, public prosecutor or a court conducting criminal proceeding (Art. 3.2). Protection measures are carried out by the Security Service or the Ministry of Interior (Art. 3.3). The law indicates that the following security arrangements will be available to a beneficiary of the program:

- a. Bodyguards and guards watching home and property;
- b. Issuance of special individual protection means and warning devices;
- c. Use of technical means of tracing and listening in on telephone and other communications; visual surveillance;
- d. Replacement of ID papers and changes in appearance;
- e. Transfer to a different place of work or enrolment in a course of training;
- f. Change of residence;
- g. Enrolment in a children's preschool educational institution or social welfare institution;
- h. Securing confidentiality of information on the person [under protection];
- i. Court hearings in camera.

'2. Depending on the nature and degree of danger to the life, health, home, and property of persons under protection, other security arrangements may be made. (Art. 7)',<sup>23</sup>

[Back to Contents](#)

## 8. Corruption

- 8.1.1 Transparency International produced a 2014 Corruption Perceptions Index, which measured the perceived levels of public sector corruption in 175 countries/territories around the world. A score of 0 was 'highly corrupt' and a score of 100 was 'very clean.' Ukraine scored 28 out of 100 (the global average score) and 142 out of 175 (Eastern Europe and Central Asia score; the average in this region was 33 out of 100).<sup>24</sup>
- 8.1.2 Freedom House gave Ukraine a corruption rating of 6 for the year 2014; ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest.<sup>25</sup>
- 8.1.3 A report by Freedom House, 'Nations in Transit 2015,' dated June 2015, stated: 'A genuine effort to combat endemic corruption was one of the main demands of the Euromaidan movement, and the removal of the former president, who was deeply mired in the problem, represented an important first step. However, further gains would require systemic reform.

'The year's greatest achievement in this area was the parliament's 14 October [2014] adoption of a package of anticorruption legislation, which was welcomed by domestic NGOs and international organizations. In fact, the laws were developed by the RPR [Reanimation Package of Reforms] civil society network in cooperation with the Justice Ministry, based on recommendations from UN and Council of Europe experts. Among other provisions, the package would allow asset seizures and trials in absentia for former officials who fled the country, make it easier to convict suspects based on unexplained wealth, require full disclosure of the real beneficiaries of Ukrainian companies, and create an anticorruption bureau tasked with investigating and prosecuting high-level corruption. When implemented, the laws would fulfill requirements linked to crucial international financial assistance. Although the effectiveness of the measures in practice had yet to be seen in 2014, the new package generated more optimism than previous anticorruption efforts given the political will and comparative probity of the post-Yanukovich leadership...

'The effort to locate, freeze, and recover assets illegally obtained by Yanukovich and his associates was ongoing throughout 2014. The search

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<sup>23</sup> Canada: Immigration and Refugee Board of Canada, Ukraine: Crime situation, including organized crime; police and state response; availability of witness protection, 17 September 2012, UKR104176.E, available at: <http://www.refworld.org/docid/507291dd2.html> Date accessed: 21 August 2015

<sup>24</sup> Transparency International. Corruption Perceptions Index 2014; Eastern Europe and Central Asia <http://www.transparency.org/cpi2014/infographic#compare> Date accessed: 17 August 2015.

<sup>25</sup> Freedom House. Nations in Transit 2015 - Ukraine, 26 June 2015, available at: <http://www.refworld.org/docid/55929ef224.html> Date accessed: 17 August 2015.

was primarily based on investigations by journalists at the online newspaper Ukrayinska Pravda; Serhiy Leshchenko, a well-known journalist at the outlet who was later elected to parliament with the Poroshenko Bloc, published a book on his findings in September. In early October, the parliament enacted a law giving the authorities greater power to confiscate the property of suspects who have fled the country or assisted separatist militants. However, there was little in the way of actual asset recovery during the year, and at year's end the government had yet to prosecute officials from the Yanukovych regime, even those who were still in Ukraine. The lack of progress caused considerable public frustration.<sup>26</sup>

8.1.4 A further report by Freedom House, 'Freedom in the World 2015,' published in January 2015, noted:

'Over the course of the year, Ukraine made some progress in its fight against corruption, but considerable problems persisted. The removal of Yanukovych meant the end of extensive graft by the president himself, members of his family, and his closest associates. However, business magnates continue to benefit financially from their close association with top politicians. Dmytro Firtash, a key figure in the gas industry who was awaiting extradition to the United States from Austria at year's end, reportedly has influence in the Poroshenko bloc and finances other parties.

'In mid-October [2014], the parliament adopted an anticorruption strategy for the next three years, and the president set up a new National Council on Anticorruption Policy, replacing a similar body that Yanukovych had established in 2010. A package of related legislation made it easier to identify the actual owners of companies, established measures to track the assets of public officials, and created protections for whistle-blowers. The parliament also created a new anticorruption bureau, but the head of Transparency International Ukraine warned that the provisions of the final bill would leave it "disabled and ineffective, not strong and independent."

'In March, journalist and opposition activist Tetyana Chornovol was appointed as head of an existing National Anticorruption Committee, but she resigned in August, claiming that there was no political will to fight corruption. Economy Minister Pavlo Sheremeta resigned the same month, saying his efforts to push through economic reform had been frustrated. Both had come to office through their association with the Euromaidan protests, but they proved incapable of working effectively inside the administration against entrenched interests.<sup>27</sup>

8.1.5 The 'Freedom in the World 2015' report further stated:

'A lustration law that came into force in October [2014] was designed to remove public officials who supported the corruption of the former administration and could use their positions to obstruct reform... However,

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<sup>26</sup> Freedom House. Nations in Transit 2015 - Ukraine, dated 26 June 2015. Available at: <http://www.refworld.org/docid/55929ef224.html> Date accessed: 17 August 2015.

<sup>27</sup> Freedom House. Freedom in the World 2015; Ukraine, published 28 January 2015. <https://www.freedomhouse.org/report/freedom-world/2015/ukraine> Date accessed: 13 August 2015.



critics later warned that the measure, which was initially approved without a publicly available text, was being applied in an arbitrary manner, meaning some individuals could be targeted unfairly while more culpable figures avoid scrutiny because they have political connections or other influence. Others pointed out that there was no independent body to monitor the lustration process. By year's end, the law was being challenged in the courts.<sup>28</sup>

8.1.6 Freedom House's report, 'Nations in Transit 2015,' further noted:

'The lustration law, also enacted in October [2014] but subject to possible revisions that were under discussion at year's end, could have an impact on corruption among public servants by forcing the dismissal or exclusion of those implicated in abuses of power under Yanukovich or the Soviet Union. It also entailed a review of officials' asset and income declarations. Implementation of the law would take place in four phases and last until the end of 2016. Although it does not apply to current elected officials or judges on the country's highest courts, it was estimated that about a million public servants would be subject to examination... the legislation as adopted in October was criticized for a number of shortcomings, including the fact that officials could be dismissed based on collective responsibility rather than individual guilt – a violation of international standards.'<sup>29</sup>

8.1.7 In May 2015 the European Commission reported that:

'The progress made so far on anti-corruption policies was notably at legislative level and on some preparatory steps for a new institutional setting. In October 2014, an anti-corruption package, including a national strategy for 2014-17, was adopted, setting the foundations for a new institutional framework for prevention policies. Certain shortcomings in the law on the National Anti-Corruption Bureau were addressed in February 2015, including safeguards for staff salaries and a framework for a specialised anti-corruption prosecution office. The recruitment of the Bureau's leadership, following an open competition managed by an independent commission, was finalised on 16 April 2015, when the President appointed the Bureau's director. The central register of companies is being completed with data on beneficial ownership. Progress was made in reducing exemptions in public procurement.

'However, there is little prioritisation and coherence in the implementation, leading to a fragmentary approach for what is already an overwhelming process. Besides, the Commission will continue to monitor the putting in place of anti-corruption safeguards for privatisations, state-owned/controlled companies as well as large public procurement; the adoption of legislation reflecting the GRECO recommendations on party and electoral campaign funding and the follow up of the Venice Commission's recommendations and

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<sup>28</sup> Freedom House. Freedom in the World 2015; Ukraine, published 28 January 2015. <https://www.freedomhouse.org/report/freedom-world/2015/ukraine> Date accessed: 13 August 2015.

<sup>29</sup> Freedom House. Nations in Transit 2015 - Ukraine, dated 26 June 2015. Available at: <http://www.refworld.org/docid/55929ef224.html> Date accessed: 17 August 2015.

a realistic frame as regards the 'cleaning-up' exercise of the ranks of judges and prosecutors envisaged by the Ukrainian authorities.

'The anti-corruption benchmark is deemed to be only partially achieved. It is recommended that the Ukrainian authorities:

- Ensure a high-level, anti-corruption coordination mechanism to implement the anticorruption strategy and ensure a consistent approach at political level.
- Establish an operational and independent National Anti-Corruption Bureau, a specialised anti-corruption prosecution office and a National Agency for Prevention of Corruption, with clear guidelines for inter-agency cooperation.
- Put in place procedures to ensure: the timely publication of all current asset declarations; effective verification of assets and conflicts of interest of public officials; full operability and accuracy of central electronic databases, including on asset declarations and beneficial ownership; and a unified web portal disclosing public expenditure.
- Establish a national Asset Recovery Office and an effective inter-agency coordination to establish an asset recovery record.
- Pursue the immunity reforms related to judges and Members of Parliament.'<sup>30</sup>

## 8.2 Justice

8.2.1 The Norwegian Country of Origin Information Centre, Landinfo, published the following in July 2015:

'Courts in Ukraine have been characterized by a high degree of corruption and strong dependence on the executive bodies. The population's confidence in the courts has also been very low. After the Majdan Revolution in February 2014, the country has adopted a series of new laws in an effort to improve the conditions. The main question is to what extent these laws are actually working.

'Corruption is a crime, but many corrupt judges have avoided prosecutions. Influential politicians, wealthy business people and others have in turn been able to buy their freedom from prosecution or get for them a desired outcome of a case.

'Among many new laws are the so-called lustration laws. Judges who are suspected of having abused their position or who are not wanted as judges by the new regime for various reasons are subject to scrutiny with the aim of

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<sup>30</sup> European Commission. Report from the Commission to the European Parliament and the Council. Fifth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation. 8 May 2015. 2.3.1.3. Preventing and fighting corruption. [http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth\\_progress\\_report\\_on\\_the\\_implementation\\_by\\_ukraine\\_of\\_the\\_action\\_plan\\_on\\_visa\\_liberalisation\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/international-affairs/general/docs/fifth_progress_report_on_the_implementation_by_ukraine_of_the_action_plan_on_visa_liberalisation_en.pdf) Date accessed: 21 August 2015

possibly having to retire. The lustration laws have been met with criticism from some quarters.<sup>31</sup>

### 8.3 Former President Yanukovich and oligarchic rule

#### 8.3.1 The following was published by Reuters in April 2014:

'Ukraine's chief prosecutor has accused Viktor Yanukovich of heading a mafia-style syndicate whose crimes cost the former Soviet republic up to \$100 billion and said some of the stolen money was now being used to fund Russian-backed separatists. Ex-President Yanukovich fled to Russia in late February [2014] after a revolt that prompted Vladimir Putin to annex Ukraine's Crimea province, triggering the biggest confrontation between the Kremlin and the West since the end of the Cold War in 1991.

'Acting Prosecutor General Oleh Makhnitsky said that while president from 2010, Yanukovich personally ran a multi-billion dollar criminal syndicate whose tentacles reached almost all walks of the Ukrainian state and Ukrainian life. "Ex-President Viktor Yanukovich headed a mafia structure in Ukraine which spread across different state structures," Makhnitsky told Reuters in London on Tuesday after meeting U.S. and British officials about ways to recover stolen assets.

'Yanukovich could not be reached for comment on the accusations. He is at an unknown location in Russia but Reuters tried to contact people with links to him for a response. Makhnitsky said he would be arrested if he returns to Ukraine...

'Makhnitsky said that exact figures were impossible to give at such an early stage but that there was already evidence that \$350 million had been stolen from the state by Yanukovich and his allies, including his two sons Oleksander and Viktor. "The loss to Ukraine is up to \$100 billion," he said in Ukrainian, adding that some of the money had ended up in Western Europe while large amounts of cash had gone eastwards to Russia.

'From Russia, Yanukovich has denied having bank accounts or property abroad, though the European Union and United States have ordered his assets to be frozen. The prosecutor declined to name any Western banks involved in the suspect transactions.

'Makhnitsky was appointed by parliament during the overthrow of Yanukovich and is a member of the nationalist and far-right Svoboda party. The location of the previous prosecutor, Viktor Pshonka, is unknown. A warrant has been issued for his arrest and the European Union has ordered his assets be frozen because he is under investigation in connection with the embezzlement of state funds and their transfer abroad. He could not be reached for comment.

'The \$100 billion figure is equal to more than half the annual economic output of Ukraine in 2013... Chronic corruption in all walks of life - from

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<sup>31</sup> Landinfo - Norwegian Country of Origin Information Centre: Domstolene – korrupsjon og manglende uavhengighet (Summary), 6 July 2015 (available at [ecoi.net](http://www.ecoi.net)) [http://www.ecoi.net/file\\_upload/1788\\_1436877826\\_3198-1.pdf](http://www.ecoi.net/file_upload/1788_1436877826_3198-1.pdf) Date accessed: 14 August 2015./

modest bribes on the street to the vast sums whispered by the former Cold War warriors of the Kremlin - has stoked anger and revolution across the republics of the former Soviet Union in recent years. As the Socialist superpower crumbled in 1991, a few thousand insiders gathered fortunes in the chaos while 250 million people were thrust into poverty.

'When asked to put a figure on how much money had left Ukraine since the fall of the Soviet Union, Makhnitsky said the sums were so huge that it would be impossible to give a figure. He said that Yanukovich and his people had spirited \$32 billion dollars in cash across the border in trucks as his power crumbled early this year and that some of the money was now being used to fund separatists in eastern Ukraine...

'Makhnitsky said that Ukraine had become a haven for the wealthy tycoons who became known as oligarchs because of their reputation for pulling the levers of political power from Vladivostok on the Pacific to Ukraine's border with Poland. "They were able to steal from Ukraine, steal from the nation, enrich themselves, they had no motivation whatsoever to keep the funds in Ukraine."

'When asked whether the Ukrainian authorities were looking at the affairs of the country's richest businessmen some of whom had close ties to Yanukovich, he said: "We are checking, we are investigating everyone now. And it is not only the prosecutor's office, it is also financial monitoring institutions and the tax authorities," he said. "If there is any evidence of criminality, we will take measures to bring the assets back" to Ukraine.

'Makhnitsky declined to give the names of those Ukrainian structures he was investigating.'<sup>32</sup>

8.3.2 The following was published by Le Monde Diplomatique in April 2014: 'Ukraine's president has fled and there is an interim government, but the power brokers who will make or break the country's future include many of the same oligarchs who backed the last regime. And the corruption won't stop...

'Over the past 20 years, Ukraine has experienced a form of development referred to as oligarchic pluralism. Many businessmen who amassed huge fortunes buying up mines and factories privatised cheaply after the fall of the Soviet Union have gone into politics. Oil and gas traders have become ministers or heads of major institutions. Former prime minister Yulia Tymoshenko, a leading figure in the 2004 Orange Revolution who was held up in the West as a martyr when she was imprisoned in 2011, made a fortune in the gas industry. A revolving door has developed between business and politics. Some powerful businessmen have played a more discreet role by financing the campaigns of politicians whom they expect to represent their interests. This system, which became the accepted way of doing things under President Leonid Kuchma (1994-2005), assumes

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<sup>32</sup> Reuters. 'Toppled "Mafia" President cost Ukraine up to \$100 billion, prosecutor says,' dated 30 April 2014. <http://www.reuters.com/article/2014/04/30/us-ukraine-crisis-yanukovich-idUSBREA3T0K820140430> Date accessed: 14 August 2015.

constant reconfiguration shaped by the competing interests of the powerful, and their alliances and feuds...

'After 2010, Yanukovich, long viewed as the political representative of the Donetsk clan's interests, decided to demonstrate his independence. He appointed men he trusted —members of the "family" — to key state posts. Among them was Serhiy Arbuzov, his personal banker, who was put in charge of the national bank in 2010. He was briefly made prime minister at the height of the crisis on 28 January, after the departure of Mykola Azarov. The president also relied on Vitaliy Zakharchenko, a close friend of his son Oleksandr, whom he put in charge of the tax authorities in December 2010, before promoting him to interior minister. He also favoured the influential Dmytro Firtash, who for a time enjoyed a monopoly on Russian gas imports, before diversifying into chemicals and banking. Zakharchenko has now fled to Russia and Firtash was arrested in Vienna on 13 March.

'The "family" also fostered the emergence of the "young oligarchs" group, in which Serhiy Kurchenko was the rising star. Kurchenko was born in Kharkiv in 1985 and owns Gas Ukraine, which controls 18% of the liquid gas market and has a global turnover of \$10bn. He bought the Odessa refinery in 2012 as well as the football club in his home town, Metalist Kharkiv. His rise has been made possible by his close relationship with the son of Ukraine's former prosecutor general, Viktor Pshonka, another member of the "family". In acquiring the Odessa refinery, Kurchenko went into competition with Ihor Kolomoyskyi, Ukraine's third wealthiest man and a major player in the oil market. "The competition was unfair," journalist Anna Babinets said, "because Kurchenko enjoyed the support of the regime..."<sup>33</sup>

[Back to Contents](#)

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<sup>33</sup> Le Monde Diplomatique (English edition). 'New deal, same players,' dated 3 April 2014. <http://mondediplo.com/2014/04/03ukraine> Date accessed: 14 August 2015.

# Version Control and Contacts

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

## Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**.
- valid from **24 November 2015**.
- this version approved by **Sally Weston, Deputy Director (IBPD)**.
- approved on: **22 November 2015**.

[Back to Contents](#)