



Home Office

# **Country Information and Guidance**

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

**Version 2.0**

**May 2016**

# 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/>

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# Guidance

Updated May 2016

## 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.

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### 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.

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## 2. Consideration of issues

### 2.1 Credibility

- 2.1.1 For guidance on assessing credibility, see 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](#)).

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### 2.2 Particular social group

- 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](#).

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### 2.3 Assessment of risk

- 2.3.1 The overall presence of organised crime groups in Ukraine is declining rapidly (see [Trends of Organised Crime](#)). Ukrainian organised crime has mostly been involved in human trafficking, drug trafficking, cyber crime,

corporate raiding and smuggling of products to the European Union. Smuggling of weapons is increasing, whereas the involvement of organised crime gangs 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 operate in Crimea and the eastern regions of Donetsk and Luhansk; and also in the bordering south-eastern region of Zaporizhia and Odessa region 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 and the primary motives behind them are said to be failure to pay debts, property distribution/division of spoils and 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](#).

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## 2.4 Protection

- 2.4.1 Ukraine has specific laws against organised crime (see [Law on organised crime](#)) and has restructured the work of agencies responsible for preventing and fighting organised crime. The reform provided, amongst other things, for the establishment of an additional body in the fight against organised crime - the State Bureau of Investigation (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, if it is required, depending on the nature and degree of the risk (see [Witness protection](#)).
- 2.4.4 Corruption has 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 is evidenced by the 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 that 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 the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.5 Internal relocation

- 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 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](#).

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## 2.6 Certification

- 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 \(clearly unfounded claims\)](#).

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## 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 the 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 that he is at 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.
- 3.1.6 Where a claim falls to be refused it is likely to be certifiable as 'clearly unfounded'.

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# Country Information

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## 4. Organised crime

### 4.1 Nature of organised crime

#### 4.1.1 An article published by the New Republic journal in June 2014 stated:

‘In the first decade of Ukrainian independence, the Donbas had the highest level of criminal activity in all of Ukraine. Between 1990 and 1993, total crime in the Donetsk region increased by 50 percent. In 1991 alone, the Donetsk police department fingered 2,186 criminal groups, which at that time had committed over 4,000 alleged crimes, including 33 murders, 212 robberies, 173 cases of extortion, and so on. Since 1991, the number of organized criminal groups identified by law enforcement agencies has increased steadily.’<sup>1</sup>

#### 4.1.2 In November 2014 the Elite Daily reported:

‘Organized crime has been intricately involved in the Ukraine crisis from the very beginning. From the start, local gangsters have been at the center of the violence and the money. Moreover, organized crime groups are also looking to profit off Russian development funds flowing into Crimea through both fraud and embezzlement. This year alone, the funds coming in could amount to \$4.5 billion. What’s more, organized crime groups around the world also stand to gain from the chaotic situation.’<sup>2</sup>

#### 4.1.3 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 [sic] little or no involvement from the state. Traditional high-level organized

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<sup>1</sup> New Republic. Piotr H. Kosicki and Oksana Nesterenko, ‘Eastern Ukraine Has Been a Mafia State for Years. Can Kiev Break the Cycle of Violence?’, dated 5 June 2014.

<https://newrepublic.com/article/118010/eastern-ukraine-mafia-state-can-kiev-impose-rule-law>. Date accessed: 21 April 2016

<sup>2</sup> Elite Daily. John Haltiwanger, ‘How The Ukraine Conflict Is Extremely Profitable For Gangsters,’ dated 11 November 2014. Available at: <http://elitedaily.com/news/politics/ukraine-conflict-making-organized-crime-rich/843687/>. Date accessed: 21 April 2016.

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>3</sup>

4.1.4 The April 2015 report by the Organized Crime Observatory<sup>4</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

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<sup>3</sup> Organized Crime Observatory. ‘Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?’ dated 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

<sup>4</sup> Organized Crime Observatory. ‘Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?’ dated 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

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.

- 4.1.5 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 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...

'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>5</sup>

- 4.1.6 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

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<sup>5</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.

consolidate and expand lucrative human trafficking and drugs smuggling routes.

'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>6</sup>

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## 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

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<sup>6</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.

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 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>7</sup>

4.2.2 Recent examples of contract killings in Ukraine include politicians, journalists and businessmen with the links to politics. For example, Oles Buzyna, former editor-in-chief of the daily newspaper Segodnya, known for his pro-Russian views and his criticism of President Petro Poroshenko's government, was shot and killed on 16 April 2015. On 17 April, the Kyiv police chief told media that the police suspected that Buzyna's murder was a contract killing. The day before Buzyna's murder, Oleg Kalashnikov, a former member of parliament from Yanukovich's Party of Regions, was shot dead outside the door to his apartment in Kiev.<sup>8</sup>

4.2.3 Consortiumnews.com, an investigative news magazine on the internet, reported the following on 3 April 2015 in an article titled 'Mysterious Deaths in Ukraine:'

'Feb. 26 [2015]: Alexander Bordiuga, deputy director of the Melitopol police, was found dead in his garage.

'Feb. 26 [2015]: Alexander Peklushenko, former member of the Ukrainian parliament, and former mayor of Zaporizhia, was found shot to death.

'Feb. 28 [2015]: Mikhail Chechetov, former member of parliament, member of the opposition party (Partia Regionov), "fell" from the window of his 17th floor apartment in Kiev.

'March 14 [2015]: The 32-year-old prosecutor in Odessa, Sergey Melnichuk, "fell" to his death from the 9th floor.'<sup>9</sup>

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<sup>7</sup> Organized Crime Observatory. 'Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?' dated 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>8</sup> Human Rights Watch. 'Ukraine: Pro-Russian Journalist Shot Dead in Kiev,' dated 18 April 2015. <https://www.hrw.org/news/2015/04/18/ukraine-pro-russian-journalist-shot-dead-kyiv> Date accessed: 11 April 2016

<sup>9</sup> Consortiumnews.com. 'Mysterious Deaths in Ukraine,' dated 3 April 2015. <https://consortiumnews.com/2015/04/03/mysterious-deaths-in-ukraine/> Date accessed: 4 April 2016

### 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>10</sup>

#### 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

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<sup>10</sup> Organized Crime Observatory. 'Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?' dated April 2015. History of 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

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>11</sup>

4.3.3 An article published by the Council on Foreign Relations in March 2015 stated:

‘Eastern Ukraine has long been ruled by a nexus of political power, business interests, and criminal groups. An important power figure before the war was Ukrainian businessman Rinat Akhmetov, who enjoyed greater authority than many local governors or law enforcement officials. After the conflict erupted, corrupt local institutions collapsed as prewar officials and business leaders fled west or threw in their lot with separatists, leaving the separatist-held territories to devolve into lawlessness.’<sup>12</sup>

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## 4.4 Illicit drugs

4.4.1 CIA World Factbook noted the following 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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<sup>11</sup> Global Initiative Against Transnational Organised Crime. ‘Analyzing Organized Crime,’ dated April 2014. <http://www.globalinitiative.net/download/global-initiative/Analyzing%20Organized%20Crime%20-%20%20April%202014.pdf> Date accessed: 21 August 2015

<sup>12</sup> Foreignaffairs.com. Paul Stronski, ‘Broken Ukraine; The Mess Isn't All Russia's Fault,’ dated 17 March 2015 <https://www.foreignaffairs.com/articles/eastern-europe-caucasus/2015-03-17/broken-ukraine> Date accessed: 31 May 2016.

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>13</sup>

4.4.2 The US Department of State's 2016 International Narcotics Control Strategy Report published in March 2016, 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 (EU) illegal drug market.

'Heroin from Afghanistan is trafficked through Russia, the Caucasus, and Turkey, before passing through Ukraine. Cocaine originating from South America is moved through Ukrainian seaports and airports for both domestic use and further transit to EU countries. Ukrainian law enforcement occasionally interdicts large shipments of drugs in commercial shipping transiting southern ports. In June 2015, a record 500 kilogram shipment of heroin was seized in transit arriving from Turkey through Illichivsk near Odesa, en route to Western Europe. More commonly, drugs are found in small quantities, ranging from several grams to several hundred grams. Russian aggression in eastern Ukraine, including arming, training, and fighting alongside separatists, has created a new vulnerability that could lead to increased drug transit through the region.

'The use of synthetic drugs and psychotropic substances, especially amphetamines, has been rapidly increasing in Ukraine over the past decade, in line with international trends. Synthetic drugs are trafficked to Ukraine primarily from Poland, Lithuania, and the Netherlands, but they are also produced locally in small clandestine labs.

'Most domestic drug abuse, however, continues to be focused on drugs made from illicit drug crops (cannabis and opium poppy) grown in the region. These account for more than 90 percent of the total drug market in Ukraine. In most instances, these drugs are either locally produced or supplied from Russia and Moldova.

'The number of registered drug addicts was 68,220 as of May 2015. However, various experts estimate the actual total number of people with substance use disorders in Ukraine could be as high as 500,000.<sup>14</sup>

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<sup>13</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>14</sup> US Department of State. '2016 International Narcotics Control Strategy Report,' Volume I; Ukraine, dated March 2016. <http://www.state.gov/documents/organization/253655.pdf> Date accessed: 4 April 2016.

## 4.5 Human trafficking

- 4.5.1 See country information and guidance on [Ukraine: Women fearing gender based violence](#).

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## 4.6 Smuggling of products

- 4.6.1 In an article dated November 2014, Mark Galeotti, a leading expert in transnational crime and Professor of Global Affairs at New York University, stated:

‘These days, the Ukrainian port of Odessa is the smugglers’ haven of choice on the Black Sea. There’s Afghan heroin coming through Russia and heading into Western Europe through Romania and Bulgaria, stolen cars coming north from Turkey, unlicensed Kalashnikovs heading into the Mediterranean, Moldovan women being trafficked into the Middle East, and a whole range of criminal commodities head out of Odessa Maritime Trade Port, along with its satellite facilities of Illichivsk and southern ports. Routes head both ways, though, and increasingly there is an inward flow of global illicit goods: Latin American cocaine (either for retransfer by sea or else to be trucked into Russia or Central Europe), women trafficked from Africa, even guns heading to the war zone.’<sup>15</sup>

- 4.6.2 IB Times published in January 2016 the following:

‘Since fighting broke out between pro-Moscow and Ukrainian government forces in May 2014, thousands of weapons, including high-powered Kalashnikov assault rifles, rocket launchers, and grenades, have entered the hands of rival militias, and seeped into the country’s black market.

‘Violence in east Ukraine between government forces and pro-Moscow militias has been sporadic since September. Under the terms of the recent Minsk ceasefire agreement, officials from the European Council for Security and Co-operation in Europe have begun overseeing the withdrawal of heavy weapons from the front line in Donetsk and Donbass. However, no efforts are being made by the agency to restrict the flow of small arms, and Ukrainian authorities claim that the smuggling of Russian weapons into the country continues unabated, though Moscow has long denied allegations of involvement.’<sup>16</sup>

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<sup>15</sup> Mark Galeotti, ‘How the Invasion of Ukraine Is Shaking Up the Global Crime Scene,’ dated 6 November 2014. <http://www.vice.com/read/how-the-invasion-of-ukraine-is-shaking-up-the-global-crime-scene-1106> Date accessed: 3 April 2016

<sup>16</sup> IB Times. Tom Porter, ‘Poland: Weapon smuggling following Ukraine war arming organised crime and terrorists in Western Europe,’ dated 25 January 2016. <http://www.ibtimes.co.uk/poland-weapon-smuggling-following-ukraine-war-arming-organised-crime-terrorists-western-europe-1533683> Date accessed: 31 May 2016.

## 5. Legal position

### 5.1 Law on organised crime

5.1.1 Ukraine has a comprehensive legislation on the fight against organized crime, which is based on the Constitution of Ukraine and includes the Law of Ukraine on the organizational and legal foundations of struggle against organized crime, Criminal and Criminal Procedure Codes of Ukraine, Laws of Ukraine On Operative and Investigative Activities, On the National Police of Ukraine, On the Security Service of Ukraine, On Prosecution, On State Bureau of Investigation etc.

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

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### 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>17</sup>

5.2.2 In December 2015, the European Commission reported: 'On 26 May 2015 the President of Ukraine approved the National Security Strategy, which aims at defining the overall vision and direction of the reform process. The Strategy is a good step forward.

'The complex reform process of the Ministry of Internal Affairs and the agencies responsible for preventing organised crime is ongoing. The authorities aim to establish competences of the law-enforcement agencies' remit clearly, including a clear chain of responsibility for the investigation and prosecution. Key elements of the reform, such as clear jurisdiction and preventing functions overlapping in the fight against organised crime should be further followed -up.

'The Ukrainian authorities undertake efforts to reduce the pre-trial investigative powers of the Security Service for intelligence and counterintelligence. On 21 November 2015, the President signed the law aimed at the optimising law-enforcement powers in pre-trial investigation. The competence on the pre-investigative powers of illegal smuggling was transferred from the Security Service to the Ministry of Interior. The specialization of judges and prosecution for organized crime cases has been further considered.

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<sup>17</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], dated 25 March 2015. Available at ecoinet: [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.

'To ensure effective witness protection, the Ukrainian authorities will consider the allocation of resources for the next budgetary period. A new procedure for cooperation on witness protection issues and consistent application of witness protection orders is envisaged.

'The preventing and fighting organised crime benchmark is deemed to have been achieved.'<sup>18</sup>

5.2.3 In December 2015, the European Commission reported that:

'The National Anti-Drug Strategy and its related action plan is being implemented through the second action plan for the period 2015-2020.

'The authorities considered consolidating the provisions regulating drugs in a single legal instrument. This will help to harmonise the legislation of Ukraine on drugs. The Ministry of Health ensures cooperation with other drug policy institutions that participate in implementing state policy on drugs control on regular basis. As part of the Action Plan for 2015 on the implementation Strategy of Drug Policy in 2020, the Ministry of Internal Affairs is involved in implementing of planned measures together with the Security Service, the State Border Guard Service, and the State Fiscal Service, including conducting operative-preventive measures to detect and seize drugs, psychotropic substances, their analogues and precursors, and toxic and potent drugs. Between 1 January and 9 November 2015 the SBGS seized more than 200kg of drugs.

'The anti-drug benchmark is deemed to have been achieved.'<sup>19</sup>

5.2.4 Amnesty International's 2015/16 report noted that 'On 12 November [2015], Parliament adopted a law creating a State Investigation Bureau, tasked with the investigation of alleged crimes committed by law enforcement officials. The law was pending presidential approval at the end of the year [2015].'<sup>20</sup> It was however subsequently reported on 29 February 2016 by the Ukraine Government that 'The Government of Ukraine, at an extraordinary meeting adopted a resolution on the establishment of the State Bureau of Investigation [SBI] and approved six out of nine members of the Commission for the selection of an SBI chairman. The Bureau would start operation after its chairman appointed and the entire structure of the SBI formed. With a separate decision there were approved six out of nine members of the Selection Commission who had been offered by the President of Ukraine and the Cabinet of Ministers. Another three candidates have to be delegated

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<sup>18</sup> European Commission. 'Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation,' dated 18 December 2015. 2.3.1. Preventing and fighting organised crime, terrorism and corruption. <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF> Date accessed: 2 April 2016

<sup>19</sup> European Commission. 'Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation,' dated 18 December 2015. 2.3.1.5. Drugs <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF> Date accessed: 5 April 2016

<sup>20</sup> Amnesty International. 'Annual Report: Ukraine, 2015/2016, published 24 February 2016. <https://www.amnesty.org/en/countries/europe-and-central-asia/ukraine/report-ukraine/> Date accessed: 3 April 2016

by the Verkhovna Rada, to which the Government appealed once again with the request.<sup>21</sup>

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## 6. Law enforcement

### 6.1 Police

#### 6.1.1 The US Department of State (USSD) Human Rights report covering 2015 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 SBU is responsible for all state security, nonmilitary intelligence, and counterintelligence.

‘The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president. The State Fiscal Service exercises law enforcement powers through the tax police and reports to the Cabinet of Ministers. The State Migration Service implements state policy regarding border security, migration, citizenship, refugee registration and other registering other migrants; the Ministry of Internal Affairs oversees it.

‘Civilian authorities generally had control over law enforcement agencies but rarely took action to investigate and punish abuses committed by security forces.

‘Impunity for abuses by law enforcement remained a significant problem. During a September visit to the country, the UN special rapporteur on extrajudicial, summary or arbitrary executions recommended that the government establish a system of independent overview of the conduct of law enforcement, with a particular focus on allegations of mistreatment by the SBU.

‘Human rights groups expressed concern that authorities have not properly investigated crimes committed by Ukrainian forces and have not punished them. In particular human rights groups noted that alleged crimes committed by the Aidar Battalion remained unsolved, including the killing of two persons in Shchastya in February [2015].’<sup>22</sup>

#### 6.1.2 The US Department of State’s Country Reports on Human Rights Practices for 2015, published in April 2016, 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.

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<sup>21</sup> Ukraine Ministry of Foreign Affairs. ‘Government sets up the State Bureau of Investigation,’ dated 29 February 2016. <http://usa.mfa.gov.ua/en/press-center/news-from-ukraine/1246-uryad-stvoriv-derzhavne-byuro-rozsliduvany> Date accessed: 3 April 2016.

<sup>22</sup> US Department of State. ‘Country Report on Human Rights Practices 2015;’ Ukraine, dated 13 April 2016 (Section 1d. Role of the Police and Security Apparatus). <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252911> Date accessed: 21 April 2016

‘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...

‘There is no jury system. A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying a maximum sentence of life imprisonment. The law provides for cross-examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

‘The law presumes defendants are innocent, and they cannot be compelled to testify or confess, although high conviction rates called into question the legal presumption of innocence. Defendants have the right to be informed promptly and in detail, with interpretation as needed of charges against them, the right to a public trial without undue delay, to communicate privately with an attorney of their choice (or one provided at public expense), and to have adequate time and facilities to prepare a defense. The law also allows defendants also access to government-held evidence, to confront witnesses against them, present witnesses and evidence, and the right to appeal. Defendants have the right not to be compelled to testify or confess guilt. Appeals courts cannot dismiss convictions or order new trials based on missing documents, nor may they coerce defendants to sign copies of missing documents. The law applies to the rights of all defendants regardless of ethnicity, gender, or age.

‘Trials are open to the public, but some judges prohibited the media from observing proceedings. While trials must start no later than three weeks after filing of charges, prosecutors seldom met this legal requirement. Human rights groups reported that officials occasionally monitored meetings between attorneys and their clients.’<sup>23</sup>

6.1.3 In December 2015, the European Commission stated in its Report:

‘Regarding inter-agency cooperation, reform of the Ministry of Internal Affairs is still ongoing. By the end of 2015, the Ministry is planned to be transformed into a civilian body, whose main purpose is to form a consistent state policy on internal affairs and direct the activities of other agencies (the National Police, the National Guard, the State Border Guard Service, the State Migration Service and State Emergency Service).

‘On 2 July 2015, the Parliament adopted the Law of Ukraine “On the National Police”, which entered into force on 7 November 2015. The law envisages the optimisation of the National Police, a clear separation of structural

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<sup>23</sup> US Department of State. ‘Country Report on Human Rights Practices 2015;’ Ukraine, dated 13 April 2016 (Section 1d. Arrest Procedures and Treatment of Detainees; Section 1e. Trial procedures). <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252911> Date accessed: 21 April 2016

powers, the elimination of duplicate functions in line with European standards. The Ministry's reform efforts in this regard are very positive.

'International cooperation with Ukraine's law enforcement bodies is provided through Interpol and Europol channels for the prevention, detection and investigation of criminal offences. The law enforcement cooperation benchmark is deemed to have been achieved.'<sup>24</sup>

6.1.4 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>25</sup>

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## 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:

'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.

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<sup>24</sup> European Commission. '[Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation,' dated 18 December 2015. 2.3.3. Law enforcement cooperation <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF> Date accessed: 5 April 2016.

<sup>25</sup> UN Committee against Torture. 'Concluding observations on the sixth periodic report of Ukraine,' dated 12 December 2014 (paragraphs 7 to 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.

'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>26</sup>

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### 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>27</sup>

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## 7. Witness protection

### 7.1.1 In a response to an information request dated September 2012, The Immigration and Refugee Board of Canada stated: 'Under Ukrainian law,

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<sup>26</sup> Organized Crime Observatory. 'Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?' dated 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>27</sup> Organized Crime Observatory. 'Ukraine and the EU: Overcoming criminal exploitation toward a modern democracy?' dated 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.

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>28</sup>

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<sup>28</sup> Canada: Immigration and Refugee Board of Canada. 'Ukraine: Crime situation, including organized crime; police and state response; availability of witness protection,' dated 17 September

## 8. Corruption

- 8.1.1 According to Transparency International's 2015 Corruption Perceptions Index, Ukraine scored 27 out of 100 possible, which is 1 point higher than it was in the 2014 CPI. Ukraine is ranked 130 out of 168 positions. In 2014 it was 142 out of 175 positions. Such a result was achieved due to public judgment of corrupt officials, establishment of anti-corruption bodies and emergence of the whistleblowers' movement. The delay with real punishment of bribe takers, and establishing corrupt relations between business and the Government prevent Ukraine from taking a decisive step forward, according to the CPI.<sup>29</sup>
- 8.1.2 Freedom House gave Ukraine a corruption rating of 6 for the year 2015; ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest.<sup>30</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 was primarily based on investigations by journalists at the online newspaper

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2012. UKR104176.E. Available at: <http://www.refworld.org/docid/507291dd2.html> Date accessed: 21 August 2015

<sup>29</sup> Transparency International Ukraine. 'Ukraine Has Climbed Up For Only 1 Point in the World Ranking of Corruption Perception,' dated 27 January 2016. <http://ti-ukraine.org/en/news/oficial/5741.html> Date accessed: 6 April 2016

<sup>30</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.

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 Yanukovich regime, even those who were still in Ukraine. The lack of progress caused considerable public frustration.<sup>31</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 Yanukovich 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 Yanukovich 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>32</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, critics later warned that the measure, which was initially approved without a

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<sup>31</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>32</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.

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>33</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>34</sup>

8.1.7 In its December 2015 report the European Commission stated:

'The progress noted in the fifth report on anti-corruption policies, particularly the legislative and institutional progress, has continued. The adoption by the Parliament, on 8 October 2015 of legislative packages covering aspects of the report's recommendations, is an important step forward. Civil society continued to play a key role in moving the anti-corruption agenda forward.

'The National Anti-Corruption Bureau (NABU) was created, its head was appointed on 16 April 2015 following an open and competitive selection process, and around 100 investigators have been recruited and trained. The establishment of the NABU is therefore well-on track. However, the NABU cannot be fully operational without a specialised anti-corruption prosecution office.

'While the setting-up of this new specialised anti-corruption prosecution office has begun, it nevertheless remains to be ensured that its independence and integrity are recognised beyond doubt. Shortcomings in the selection process for the leadership of the anti-corruption prosecution office such as the lack of objective track-record criteria for the nomination of the members of the selection committee and the candidates, highlighted the need for the relevant legal and institutional framework to be further improved in order to fully ensure the office's independence and integrity. To this end, the selection, appointment and dismissal procedures for the office's leadership and staff must follow stricter independence and integrity

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<sup>33</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>34</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.

safeguards. The specialised anti-corruption prosecution office should become operational as a matter of top priority; it is an indispensable component of an effective and independent institutional framework for combating high-level corruption. On 30 November, the General Prosecutor appointed the head of the specialised anti-corruption prosecution.

‘There has been progress in setting-up of the National Agency for the Prevention of Corruption (NAPC), especially since the new election of the Agency's board which took place on 28 August 2015. The Government is expected to approve the five-member board in December 2015. The law on prevention of corruption, adopted in October 2014 entered into force on 26 April 2015. It provides for mechanisms to check asset declarations. These tasks will be performed by the NAPC. The NAPC will also administer the web-portal of asset declarations, which is currently being developed. A law on political parties financing was adopted in 8 October 2015. A draft law on the National Asset Recovery Office (ARO) and the Asset Management Office (AMO) passed first reading in Parliament on 8 October 2015.

‘On 10 November [2015], Parliament adopted in second reading a set of laws aimed at improving asset recovery procedures. Specifically, the draft laws: on ARO and AMO, on asset seizure and on special third-party confiscation. In the form proposed by the Government, the draft laws envisaged the establishment of an Asset Recovery Office which also comprised management functions concerning frozen and confiscated assets, as well as provisions on the freezing and confiscation process. A number of amendments to the text in Parliament have limited the Agency's functions of active management of the seized assets, as well as the provisions on seizure and confiscation.

‘Progress made on legislative and institutional aspects can only bring significant end results if fully implemented.

‘Based on these commitments, the anti-corruption benchmark is deemed to have been achieved.’<sup>35</sup>

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## 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.

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<sup>35</sup> European Commission. ‘Sixth Progress Report on the Implementation by Ukraine of the Action Plan on Visa Liberalisation,’ dated 18 December 2015. 2.3.1.3. Preventing and fighting corruption. <https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-905-EN-F1-1.PDF> Date accessed: 5 April 2016

‘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 possibly having to retire. The lustration laws have been met with criticism from some quarters.’<sup>36</sup>

8.2.2 In November 2015, Atlantic Council published article, stating:

‘The most important reform may be the creation of an independent judiciary. As Anders Åslund pointed out this summer, there is a “nearly unanimous popular viewpoint” in Ukraine that the country’s 10,279 judges and 20,367 prosecutors are “all corrupt.” The Democratic Initiatives Fund, a nonprofit Ukrainian think tank, found in a public poll last December that more than 80 percent of respondents did not trust the judiciary, believing that judges are dependent on politicians and oligarchs. Nearly 94 percent said that corruption is widespread among judges.’<sup>37</sup>

8.2.3 In April 2016, the International Development Law Organization stated:

‘Ukraine has embarked on a wide-ranging process of reform, and the momentum is there to overcome a legacy of bureaucratic stagnation, arbitrariness and corruption. The government has committed itself to the long-term reform of the Ukrainian justice sector, and the President has developed a strategy that identifies the need for increased independence, transparency, competence, accountability and efficiency of the rule of law and justice institutions.’<sup>38</sup>

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### 8.3 Former President Yanukovich and oligarchic rule

8.3.1 The following was published in July 2015 by the Guardian:

‘Unlike in Russia, where the term “oligarch” has been a misnomer since Vladimir Putin stripped them of real political clout more than 10 years ago, Ukraine has been an oligarchy in the true sense, with a few extremely wealthy men wielding huge power and influence. The Maidan revolution in February last year was largely prompted by the obscene corruption of Viktor Yanukovich and his close associates. Many protesters wanted a new type of

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<sup>36</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.

<sup>37</sup> Joshua Solomon, ‘Judiciary Reforms Take a Major Step Forward in Ukraine,’ dated 10 November 2015. <http://www.atlanticcouncil.org/blogs/new-atlanticist/judiciary-reforms-take-a-major-step-forward-in-ukraine> Date accessed: 7 April 2016.

<sup>38</sup> International Development Law Organization. ‘Ukraine: Supporting Criminal Justice Reform,’ dated 1 April 2016. <http://www.idlo.int/news/multimedia/photo-galleries/ukraine-supporting-criminal-justice-reform> Date accessed: 07 April 2016.

society, one that was not run by an oligarchic class that has been so influential in Ukraine ever since independence.<sup>39</sup>

- 8.3.2 In February 2015, the journalist-turned-MP, Serhiy Leshchenko (from the investigative website *Ukrainska Pravda*), looked at the difficulties in taking on Ukraine's entrenched oligarchy in an article 'Sunset and/or Sunrise of the Ukrainian oligarchs after the Maidan?':

'One year after Viktor Yanukovich was ousted, his methods remain firmly entrenched in the reality of Ukrainian life. Despite the country's Revolution of Dignity and continued Russian aggression against Ukraine, local oligarchs have become even more powerful and influential, and pose a significant threat to Ukraine's European development. Oligarchs control the state apparatus, mass media, and whole sectors of industry. Therefore, they can simply put the brakes on reform as soon as their financial interests are threatened.

'After Yanukovich fled Ukraine, the EU imposed sanctions against 18 individuals who embodied the old regime. The list included Yanukovich himself along with his two sons Oleksander and Viktor Jr, other former government members, and Serhiy Kurchenko, the man behind multiple business schemes for the Yanukovich family. Interestingly, none of the influential oligarchs who accumulated wealth during Yanukovich's reign were on the list.

'Even with Yanukovich's people removed from their posts, corrupt courts of justice have continued to pass judgement in the former president's favour: for example, one of the snipers who targeted people at the Maidan was released from house arrest, and the decree forbidding Ukrainian state payments to the electric plants owned by Yanukovich's family was cancelled.

'In January 2015, Yanukovich was placed on the Interpol wanted list, accused of economic crimes. But Yanukovich was instrumental in reducing, by \$30 million, the financial obligations of a company that went on to buy the state telecommunications company, Ukrtelecom. The new owner of Ukrtelecom also appears to be associated with the Yanukovich family.<sup>40</sup>

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<sup>39</sup> The Guardian. 'Oligarchs nouveaux? Why some say Ukraine is still in thrall to an elite,' dated 21 July 2015. <http://www.theguardian.com/world/2015/jul/21/ukraine-oligarchs-maidan-revolution> Date accessed: 21 April 2016.

<sup>40</sup> Serhiy Leshchenko, 'Sunset and/or sunrise of the Ukrainian oligarchs after the Euromaidan revolution?' dated February 2015. <http://euromaidanpress.com/2015/06/02/sunset-and-or-sunrise-of-the-ukrainian-oligarchs-after-the-euromaidan-revolution/#arvlbdata> Date accessed: 5 April 2016.

# 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**.

## Changes from last version of this guidance

Minor updates to country information in line with review coinducted by the Independent Advisory Group on Country Information (IAGCI) in April 2016.

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