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Ukraine

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1. Introduction

1.1 This document summarises the general, political and human rights situation in Ukraine and provides information on the nature and handling of claims frequently received from nationals/residents of that country. It must be read in conjunction with the CIPU Ukraine Country Information Bulletin 1/2005 and any other CIPU or COI Service bulletins.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

[API on Assessing the Claim](#)

[API on Humanitarian Protection](#)

[API on Discretionary Leave](#)

[API on the European Convention on Human Rights](#)

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

1.4 Ukraine is a country listed in section 94 of the Nationality Immigration and Asylum Act 2002. Asylum and human rights claims must be considered on their individual merits. However if, following consideration, the claim is refused, caseworkers should certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail. The information set out below contains relevant country information, the most common types of claim and guidance from the courts, including guidance on whether cases are likely to be clearly unfounded.

Source documents

1.5 Where paragraph numbers have been cited, these refer to the Ukraine Country Information Bulletin 1/2005. Additional source documents are listed at the end of this note.

2. Country assessment

2.1 Ukraine is a parliamentary democracy with separate executive, judicial and legislative branches. The President is Head of State and power rests largely in his Office, although the Prime Minister and his cabinet of Ministers is nominally the senior executive body. The President nominates the Prime Minister, who must be confirmed by the 450-member parliament (Supreme Rada). The parliament initiates legislation, ratifies international agreements, and approves the budget. Its members are elected to four-year terms. Political groupings in Ukraine include Communists, Socialists, agrarians, nationalists and various centrist and independent forces. The Constitution mandates a pluralistic political system and protection of basic human rights and liberties. [2a]

2.2 Campaigning for the presidential elections started in earnest in August 2004. Reformist former Prime Minister and leader of the 'Our Ukraine' block, Victor Yushchenko, and the incumbent Prime Minister Viktor Yanukovich were the clear front runners. [2a] Although opinion and exit polls showed Yushchenko with a clear lead (7-15%), the results tallied by the Central Election Commission on 22 November 2004 gave Yanukovich a lead of 49.4% to 46.7% over Yushchenko. [2.8] The OSCE condemned the election and stated that it failed to meet a considerable number of OSCE, Council of Europe and other European standards for democratic elections, and that during the pre-election period, the campaign did not permit fair conditions for all candidates. [6a] Large-scale opposition demonstrations began in Kiev and other cities across Ukraine to protest at the result. [2.8]

2.3 On 3 December 2004 the Supreme Court invalidated the second round of the elections and called for a re-run on 26 December 2004. The re-run election was won by Yushchenko by an eight-point margin over Yanukovich. [2a] The OSCE endorsed the election process, saying that it brought Ukraine substantially closer to meeting OSCE and other European standards. [6b] Since then the new government of Viktor Yushchenko has made further progress to entrench these reforms and to implement other recommendations of the OSCE. [2b] Yushchenko's inauguration took place on 23 January 2005. [2a]

2.4 A new government was appointed on 4 February 2005 following the approval by the Rada by a substantial majority of Yulia Tymoshenko as Prime Minister. The new government programme confronts a number of the main domestic challenges in Ukraine, focusing on corruption as the number one problem.

Crime and security will also be addressed and a new social policy agenda introduced, designed principally to tackle poverty. [2a]

2.5 The parliamentary bloc 'Our Ukraine' (pro-market economy, pro-reform, pro-EU), and other reformist factions back the new administration. Their informal coalition currently forms a pro-government majority of deputies in the Rada. [2a]

2.6 Throughout most of 2004 the Government's human rights record remained poor and worsened in a number of areas; however there were also improvements in some areas, particularly toward the end of the year and the election of President Yushchenko. [1a] (introduction)

2.7 The Constitution prohibits torture and ill-treatment, however, during 2004 reports that police regularly beat detainees and prisoners persisted. Human Rights Ombudsman Nina Karpachova told the media that during her nearly 7 year tenure she has received approximately 12,000 complaints from persons who asserted that they had been tortured in police custody. [1a] (Section 1c)

2.8 Police corruption was also a problem in 2004. A 2003 law prohibits the police from stopping vehicles and levying immediate fines, which officers frequently pocket to supplement their low salaries; only courts have the right to impose such fines. Although the law had an increasing deterrent effect on the police, these 'traffic stop shakedowns' still regularly occurred in 2004. [3.5]

2.9 However, the authorities made some effort to end police abuses, including taking disciplinary action against law enforcement authorities who committed them; however, impunity remained a serious problem in 2004. Police were seldom prosecuted for misbehaviour. Ombudsman Karpachova suggested that those police officers who were charged and convicted received light or suspended sentences, primarily because of what she called the 'corporate inter dependence' between law enforcement officials and the judicial branch. [3.6]

2.10 In July 2005 President Viktor Yushchenko ordered a decree to be drawn up abolishing the country's traffic police because it had proved impossible to stamp out corruption. Mr Yushchenko said his government's efforts at reforming the traffic police had proved unsuccessful. [7]

2.11 In a welcome departure from the past, Ukraine's new government aligned itself with the European Union in voting in the UN's Committee on Human Rights helping to secure crucial votes condemning human rights abuses in neighbouring Belarus. [2b]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ukraine. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).

3.3 If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API

on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Opposition to the previous Government of President Kuchma

3.6.1 Most claimants will claim that due to their opposition to the previous government either as journalists or supporters of opposition political parties they have suffered ill treatment amounting to persecution at the hands of the Ukrainian authorities either directly in the form of police harassment or indirectly through organised criminal gangs who are working on behalf of the previous authorities.

3.6.2 Treatment. The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts during 2004. Opposition politicians, politically active businessmen, and journalists were the victims of attacks that sometimes were fatal and may have been politically motivated. [3.1]

3.6.3 Under President Kuchma the government interfered with the news media and restricted those rights through use of tax inspections, libel cases, subsidy of friendly media, and intimidation of journalists. Journalists were also pressurised to provide positive coverage of President Kuchma, via so-called 'temniki' issued by the Presidential Administration. [2a]

3.6.4 Some journalists were subjected to physical attacks during 2004 that may have been related to their professional activities; however, unlike in 2003, there were no reports of deaths of journalists in connection with their professional activities. [5.2]

3.6.5 Towards the very end of the presidential election campaign in November 2004, many media outlets began to ignore government direction and covered events in a more objective, professional manner. This aptly named 'journalists' rebellion' gained significant momentum on 25 November 2004, when Ukrainian National Television (UT 1) sign language interpreter Natalya Dmytruk departed from her approved script and informed viewers that the official election results were false, adding that 'Yushchenko is our President.' In the wake of the Orange Revolution, top media watchdog organizations asserted that the media were generally more free and politically diverse than at any time in the country's modern history. [5.1]

3.6.6 As a result of the defection of various media outlets to the opposition and the ending of the issuing of 'temniki' the re-run election on Boxing Day was held in a comparatively free media environment. Since coming to power the new government has maintained the improvements. [2a]

3.6.7 Ensuring respect for the freedom of the media and freedom of expression is a priority area for action under Ukraine's ENP Action Plan with the EU that was launched on 21 February 2005. Yushchenko's new government has continued to improve the environment for media freedom and respect the Constitution. It has also taken positive steps to take forward the investigation into the murder more than four years ago of Georgy Gongadze, as well as the cases of other missing journalists. [2b]

3.6.8 Sufficiency of protection. Following the election of President Yushchenko and the establishment of a new government, steps are being taken to tackle corruption and investigate the case of missing journalists and political activists. Opponents of the previous Kuchma regime have no reason to fear the current authorities and therefore should be able to seek their protection. However, the high levels of corruption in Ukraine may limit the effectiveness of any protection that the authorities are able or willing to offer.

3.6.9 Internal relocation. The propyska system was a nationwide requirement, dating back to the Soviet regime, requiring that individuals register at their workplace and place of residence in order to be eligible for certain social benefits. It remained in operation in the Ukraine until November 2001. [6.2]

3.6.10 During 2004 a new residence registration system took effect, following the December 2003 passage of the law 'On Freedom of Movement.' The new system simplified existing procedures by requiring only that individuals who move to a new place of residence de-register at their old address, fill out a declaration listing their new address, pay a \$16 (.85 UAH) processing fee, and complete these procedures within 10 days. The new system does not limit Ukrainian citizens to one address at which they may be registered. A person may only have one permanent address, but may register temporarily at other locations (for example, at a university if a person is a student). [6.1]

3.6.11 Human rights groups stressed that the major difference between the new system and the propyska system is that a person may live, work, and receive services anywhere in the country. [6.2]

3.6.12 By the end of 2004 Ukraine did not have an automated central system of registration. For example, numerous mistakes were detected in the lists of electors due to invalid data concerning places of residence. [4]

3.6.13 The IAT found in [2004] UKIAT 00242 VS (see below) that the need to register or pay bribes if required were not sufficient to prevent internal relocation or make it unduly harsh. Therefore internal relocation may be an option for political opponents and/or journalists critical of the previous regime. However, the IAT subsequently found in [2005] UKIAT 00095 IB (see below) that internal relocation may not be an option in cases where the applicant has a fear of authorities and organised criminal gangs who have connections with the police.

3.6.14 Caselaw

[2004] UKIAT 00242 VS (Registration on Relocation) Ukraine CG Heard 11 August 2004, Promulgated 1 September 2004.

The Appellant, a member of the Ukrainian Orthodox Christian Church claimed to fear persecution from members of the Greek Catholic Church. The Tribunal found that the old propiska system of registration has been replaced by a similar system requiring a person moving to a new area to de-register with the police in his old area and then re-register in the new one.

The need for registration relates essentially to access to public services but many Ukrainians do not register. Small bribes are paid to avoid problems. The Tribunal rejected Counsel's unsupported assertions that the levels of bribe required would be a practical hindrance to satisfying the necessary registration requirements to relocate outside the Appellant's home in West Ukraine. The payment of small bribes is a normal part of everyday life in Ukraine. The need to register or pay bribes if required are not sufficient to prevent internal relocation or make it unduly harsh. The Tribunal found that the Appellant would be more able than most to afford the small sums required to internally relocate especially when compared with the cost of smuggling himself and his family out of the country.

[2005] UKIAT 00095 IB (Propiska-update and corruption) Ukraine Heard 15 February 2005, Promulgated 18 February 2005.

The Appellant claimed he had grown vegetables on a state run collective farm. He had reported his Chairman for bribery and everyone had ganged up against him and had set the Mafia on him. The Tribunal found that the Appellant will need to register with the police wherever he decides to relocate in the Ukraine. This case is distinguished from the Country Guidance case VS (Registration on Relocation) Ukraine CG [2004] UKIAT 00242 which stated relocation was possible as the Appellant in that case had no fear of organised criminal gangs unlike IB. The Tribunal in IB agreed with the expert that despite the recent election victory of President Yushchenko, progress in reforming the organs of the state, with their endemic corruption, is likely to be slow and does not at present remove a real risk to the Appellant should he return to the Ukraine.

3.6.15 Conclusion. Political opponents and/or journalists critical of the previous regime have no reason to fear the authorities following the election of Yushchenko and the establishment of a new government. Freedom of speech and the media have improved considerably and steps are being taken to tackle corruption and investigate the case of missing journalists and political activists. Therefore asylum claims from this category of claim are unlikely to qualify for asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.7 Organised crime and corruption

3.7.1 Most claimants will claim asylum based on ill treatment amounting to persecution at the hands of organised criminal gangs and that the authorities cannot offer sufficiency of protection.

3.7.2 Treatment. The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures often blurred the distinction between political and criminal acts during 2004. [3.1] Police corruption was a problem in 2004, [3.5] however, the authorities made some effort to end police abuses, including taking disciplinary action against law enforcement authorities who committed them. However, impunity continued to remain a serious problem. [3.6]

3.7.3 The new government appointed on 4 February 2005 has a programme which confronts a number of the main domestic challenges in Ukraine, focusing on corruption as the number one problem. Crime and

security are also to be addressed and a new social policy agenda introduced, designed principally to tackle poverty. [2a]

3.7.4 The new justice minister Roman Zvarych has vowed to act vigorously to uproot corruption and has stated that "The Justice Ministry will not stand for even the smallest indication of corruption in the institutions of authority.... the priority is to cleanse the administration of corruption." [5]

3.7.5 In July 2005 President Viktor Yushchenko ordered a decree to be drawn up abolishing the country's traffic police because it had proved impossible to stamp out corruption. Mr Yushchenko said his government's efforts at reforming the traffic police had proved unsuccessful. [7]

3.7.6 Sufficiency of protection. The high levels of corruption in Ukraine may limit the effectiveness of any protection that the authorities are able or willing to offer.

3.7.7 Internal relocation. Please refer to section 3.6.14 for details of the registration system and caselaw on internal relocation. The IAT found in **[2004] UKIAT 00242 VS** that the need to register or pay bribes if required are not sufficient to prevent internal relocation or make it unduly harsh. Therefore internal relocation may be an option where the claimant fears local criminal gangs with no links with the authorities. However, the IAT subsequently found in **[2005] UKIAT 00095 IB** that internal relocation may not be an option in cases where the applicant has a fear of the authorities and organised criminal gangs who have connections with the police.

3.7.8 Caselaw.

[2005] UKIAT 00095 IB (Propiska-update and corruption) Ukraine Heard 15 February 2005, Promulgated 18 February 2005

The Appellant claimed he had grown vegetables on a state run collective farm. He had reported his Chairman for bribery and everyone had ganged up against him and had set the Mafia on him. The Tribunal found that the Appellant will need to register with the police wherever he decides to relocate in the Ukraine. This case is distinguished from the Country Guidance case VS (Registration on Relocation) Ukraine CG [2004] UKIAT 00242 which stated relocation was possible as the Appellant in that case had no fear of organised criminal gangs unlike IB. The Tribunal in IB agreed with the expert that despite the recent election victory of President Yushchenko, progress in reforming the organs of the state, with their endemic corruption, is likely to be slow and does not at present remove a real risk to the Appellant should he return to the Ukraine.

3.7.9 Conclusion. The government has set out to tackle corruption and organised crime as its top priority, however, they both continue to remain serious problems in Ukraine. If organised criminal gangs have connections and influence with the local police force or other state agents then claimants may not be able to seek the protection of the authorities or be able to internally relocate to another area of the Ukraine. The majority of claimants are unlikely to qualify for asylum or Humanitarian Protection, but due to the limited availability of sufficiency of protection and the limitations on internal relocation claims in this category are unlikely to be clearly unfounded.

3.7.10 However, in cases of low level criminal activity perpetrated by criminal gangs at a local level ie street robbery/extortion in which there are no links with the authorities the claimant will be able to seek the protection of the authorities or internally relocate to another part of the Ukraine. Therefore it is unlikely that these cases will qualify for a grant of asylum or Humanitarian Protection and are likely to be clearly unfounded.

3.8 Prison conditions

3.8.1 Applicants may claim that they cannot return to Ukraine due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Ukraine are so poor as to amount to torture or inhuman treatment or punishment.

3.8.2 Consideration The 2003 Criminal Penal Code was intended to regulate prison life and provide safeguards against the mistreatment of prisoners. In accordance with the new code, all new inmates were required to undergo psychological screening, and prison administrators were required to develop a plan for the rehabilitation and eventual release of inmates. Correctional institutions for adults were also subdivided into three categories: Minimum, medium, and maximum security. [1a] (Section 1c)

3.8.3 Prison conditions improved somewhat during 2004 as a result of reforms in the penal system. Prison officials reported that, due in part to the decriminalization of many offences there was a reduction in the

number of inmates in prison, which eased overcrowding. Nevertheless, prisons were sometimes overcrowded or lacked adequate sanitation and medical facilities. [1a] (Section 1c)

3.8.4 Also in keeping with the new Code, deprivation of the right to receive a parcel is no longer used against prisoners as a punishment. Prisoners are permitted to receive much larger parcels than in the past, which may include food items, medicine, books, writing implements, clothing, shoes, and personal hygiene items. [1a] (Section 1c)

3.8.5 Men and women were held in separate facilities, and juveniles were held separately from adults. Additionally, pre-trial detainees were always held separately from convicted prisoners. The law does not recognize political prisoners as a separate category of detainee. [1a] (Section 1c)

3.8.6 Conditions in pre-trial detention facilities were harsher than in low and medium security prisons. There were reports that inmates in pre-trial facilities were sometimes held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was more common in these centres. [1a] (Section 1c)

3.8.7 Conditions in temporary holding facilities (ITT) run by the Ministry of the Interior were described as intolerable, and overcrowding remained a problem. Access to fresh air was limited and standards of hygiene inadequate. High rates of infection with tuberculosis were reported. [3]

3.8.8 The State Penal Department (SPD), in cooperation with the NGO community, implemented some programmes for the professional development of prison and police officials. According to the SPD, as of 1 September 2004 no criminal proceedings involving torture or mistreatment of prisoners had been opened against SPD employees; however, as of 1 September 2004, six criminal cases had been opened against employees for unspecified 'non human rights related' offences. No employee of the penitentiary system was disciplined for improper treatment of detainees; however, 420 employees were disciplined in the first 8 months of the year for 'serious flaws in their work and violation of work ethics.' [1a] (Section 1c)

3.8.9 The prison population as of November 2003 was 186,982 persons, including 146,319 in prisons and 40,663 in remand centres. [1b] (section 1c) According to official statistics from the SPD, there were 464 deaths in prisons during 2004: 438 due to illness, 20 suicides, 2 homicides (1 murder and 1 manslaughter), and 4 lethal traumatic injuries. In addition, there were 88 deaths in pre-trial facilities: 82 due to illness and 6 to suicide. Tuberculosis in prisons continued to be of concern; however, officials stated that mandatory screening of all new inmates for the disease had reduced infection rates. Inmates with tuberculosis were isolated from the general population and treated at one main prison hospital complex in Kharkiv Oblast. Almost 25,000 individuals reportedly were held in prison cells with neither windows nor toilets. [1a] (Section 1c)

3.8.10 The Government continued to allow prison visits from human rights observers and generally granted full access to prison facilities; however, some monitors reported that at times it was difficult to obtain access to prisons to visit specific prisoners, and there were instances in which they were not allowed full access to prison facilities. The SPD maintained, however, that there had been no instances of domestic or international human rights groups being denied access to pre-trial detention facilities. Prisoners were permitted to file complaints with the Human Rights Ombudsman about the conditions of detention, but human rights groups reported that prisoners were sometimes punished for doing so. [1a] (Section 1c)

3.8.11 Caselaw:

[2004] UKIAT 00222 (Ukraine) Heard 5 February 2004. Promulgated 12 August 2004

The Tribunal considered the US State Department report for 2000 and 2002 information from the Human Rights Ombudsman Nina Karpachova and the Amnesty International report of 15 October 2001 and found a catalogue of serious human rights abuses taking place in the Ukrainian prison system. Against this evidence, there is some evidence that the government is taking steps to address some of the problems. Steps, for example, have been taken to reduce overcrowding.

The IAT also found overcrowding is not, in itself, a violation of an inmate's human rights. Similarly, the deaths in custody, although high, include deaths from natural causes and this may be a reflection of the poor state of the physical health of those prior to detention. It also appears that the government has taken steps to address the problem of torture, albeit under pressure from the Council of Europe.

Nevertheless, the IAT found that the material before them establishes a reasonable likelihood that the claimant faces a violation of his Article 3 rights if imprisoned in the Ukraine. However, the IAT emphasised that the material referred to is relatively out-of-date. In that sense, the decision may be historical. For this reason we do not consider the findings we have made should necessarily be regarded as of continuing

relevance in future cases.

3.8.12 Conclusion. A comparison of the sources referred to by the IAT with more recent information in particular the USSD 2005 leads to the conclusion that prison conditions in the Ukraine have improved in recent years. Whilst it is accepted that prison conditions in Ukraine are poor especially in pre-trial detention facilities with overcrowding and disease being particular problems, based on the most recent information conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold.

3.8.13 Therefore even where claimants can demonstrate a real risk of imprisonment on return to Ukraine a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Ukraine the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should not imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Unaccompanied minors

4.3.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place.

4.3.2 Unaccompanied minors without a family to return to, or where there are no adequate reception arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Ukraine due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 Ukraine has retained much of the Soviet-style system of social welfare and free medical care, financed by the government. But the country's economic crisis has had a catastrophic impact on these services. Hospitals are deteriorating, doctors are poorly paid, and medicine and equipment are in short supply. [4.1]

4.4.3 Medecins Sans Frontieres (MSF) continues to provide affordable and replicable medical care and psychological support for people living with HIV/AIDS in Ukraine, with special emphasis on the southern region, which is the country's epicentre for the AIDS epidemic. MSF's program aimed at preventing mother-to-child transmission of the disease has been successful in reducing the transmission rate from 30% (without intervention) to 12%. [4.2]

4.4.4 Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim.

5.2 Ukrainian nationals may return voluntarily to any region of Ukraine at any time by way of the Voluntary

Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ukraine. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ukrainian nationals wishing to avail themselves of this opportunity for assisted return to Ukraine should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents/Additional references

[1] US State Department Report

(a) Ukraine 2004, published (25 February 2005)

(b) Ukraine 2003, published (28 February 2004)

[2] Foreign and Commonwealth Office

(a) Country Profile Ukraine, (last reviewed 28 April 2005)

(b) Human Rights Report, (21 July 2005)

[3] Amnesty International Country Report on the Ukraine 2004, (May 2005)

[4] Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004) Ukraine.

[5] Swiss info 'Ukraine minister vows to tackle corruption' (8 February 2005)

[6] OSCE international Election Observation Mission

(a) Presidential Election Ukraine 31 October 2004 (1 November 2004)

(b) Presidential Election Ukraine 26 December 2004 (27 December 2004)

[7] BBC news article 14 July 2005

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