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Home Office

# Country Policy and Information Note
## Ukraine: Actors of protection

**Version 1.0**

**May 2019**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general:**

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

## 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 support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

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. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

# Contents

# Assessment

Updated: 24 April 2019

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Whether, in general, a person at risk of persecution and/or serious harm from non-state actors and/or rogue state actors is able to obtain effective state protection.

Back to Contents

### 1.2 Points to note

1.2.1 Where a claim is 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 (see Certification).

Back to Contents

## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision makers must also check whether there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the 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 the Asylum Instruction on Language Analysis).

Back to Contents

### 2.2 Protection

2.2.1 Decision makers must assess whether, in general, the state can provide effective protection for those at risk of persecution or serious harm from nonstate actors and/or rogue state actors.

2.2.2 In general, Ukraine has a functioning criminal justice system composed of the security forces - National Police, Security Service (intelligence), military - and the judiciary; although the judiciary is vulnerable to political pressure and corruption, steps are being taken to reform the system, as outlined below (see Security apparatus and Independence and effectiveness of the judiciary).

2.2.3 The National Police is the primary law enforcement agency with approximately 152,000 officers across the country which is within the UN-recommended ratio of police officers to citizens. Since 2014 the police force has undergone a fundamental reform process including international assistance from the UK, USA, Canada and the EU (see Security apparatus).

2.2.4 The judicial system is comprised of local courts, courts of appeal, high-specialized courts and a supreme court (see Rule of law and the judiciary).

2.2.5 Although torture is prohibited by law, there were reports that police and prison officers abused or tortured detainees at times in order to obtain confessions. There were also allegations of torture against the Security Service of Ukraine (SBU). Following two visits to Ukraine in 2016, a UN Subcommittee on the Prevention of Torture (SPT) reported that they had heard numerous allegations of torture and mistreatment by the SBU, which they concluded were likely to be true. Abuses had occurred whilst the persons concerned were under the control of the SBU or during periods of unofficial detention. However, following a further visit to Ukraine in December 2017, the Council of Europe's Committee for the Prevention of Torture reported that they had received no further allegations of ill-treatment by the State Security Service. They further stated that the majority of persons who had recently been held in police custody indicated that they had been treated correctly. However, there were a number of credible allegations that police had used excessive force in arresting people and 'bringing them under control.' Such allegations were heard mainly in Kyiv, and relatively rarely elsewhere. In conclusion, the CPT delegation had the impression that ill-treatment had diminished overall since their visits of 2016, but that it was still too common, particularly in Kyiv (see State police forces and Human rights abuses).

2.2.6 Security forces generally prevented, or responded to, societal violence. However, there were times when they used excessive force to disperse protests or failed to prevent violence from taking place (see State police forces).

2.2.7 The Office of the United Nations High Commissioner for Human Rights was permitted to visit official places of detention in Government-controlled territory from August to November 2018, and was able to conduct confidential interviews with 67 conflict-related detainees in line with international standards. They found that certain pre-trial detention facilities had insufficient medical services. The UN Special Rapporteur on Torture found that the detention centres he visited had very poor sanitary conditions and poor food (see Conditions of detention).

2.2.8 Although the constitution prohibits arbitrary or unlawful interference with privacy, family, home or correspondence, there were reports that such prohibitions were not respected. However, because there is no implementing legislation, many citizens were not aware of their rights, or that their rights had been infringed (see Human rights abuses).

2.2.9 Reports indicated that action was rarely taken to punish abuses by law enforcement agencies, especially when persons had been detained on grounds related to security or were perceived to be pro-separatist. In May 2018 the UN Special Rapporteur on Torture found that formal investigations into torture are rare, that medical examinations are flawed, that medical records may be altered to conceal evidence of torture, and that victims of abuses may be intimidated into withdrawing complaints. However, both members of parliament and the human rights ombudsman have authority to conduct investigations and in October 2018, it was reported that a State

Bureau of Investigation is to be set up to address crimes committed by top state officials, law enforcement officials, military officers and judges. Compulsory human rights training is delivered to the security forces (see Investigation of human rights abuses and impunity, Avenues of redress and Training for security forces).

2.2.10 In 2017, polls found that Ukrainians had low levels of trust in the judicial system. However, steps have been taken to address shortcomings. The Strategy for Reform of the Judicial System, approved in 2015, outlined the main priorities for 2015–20, including ensuring judicial independence. In September 2016, laws which launched judicial reform came into force, and in October 2017, amendments to various procedural codes led to further advances in judicial reform. Over 1,000 judges resigned voluntarily in 2017 due to requirements for more transparent declarations of income (see Independence and effectiveness of the judiciary).

2.2.11 Although there are guarantees of due process, there were reports that those with wealth or political influence were able to evade justice. There are also reports of violations of the right to a fair trial for persons charged with conflict-related crimes, particularly in relation to forced confessions and violation of the principle of presumption of innocence. There have also been physical attacks against lawyers representing such persons (see Violation of rights).

2.2.12 A person may appeal to the human rights ombudsman at any time, and also to the European Court of Human Rights, once Ukrainian legal remedies have been exhausted (see Avenues of redress).

2.2.13 In general, the state appears both willing and able to offer effective protection. A person's reluctance to seek protection does not necessarily mean that effective protection is not available. The possible shortcomings noted above are not sufficient to indicate that the state is generally unwilling or unable to offer protection. It should be noted that protection does not need to eliminate the risk of discrimination and violence. 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.

2.2.14 For further information on effective protection for minority groups, see the Country Policy Information Notes on Ukraine: Women fearing gender-based violence, Ukraine: Sexual orientation and gender identity, Ukraine: Minority groups, Ukraine: Fear of organised criminal gangs and Ukraine: Victims of trafficking.

2.2.15 For information about the situation in Crimea and the Donbas, see the Country Policy and Information Note on Ukraine: Crimea, Donetsk and Luhansk.

2.2.16 For further guidance on assessing the availability of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

Back to Contents

# Country information

Section 3 updated: 23 April 2019

## 3. Security apparatus

### 3.1 Structure

3.1.1 The USSD HR Report 2018 stated, 'The Ministry of Internal Affairs is responsible for maintaining internal security and order. The ministry oversees police and other law enforcement personnel. The SBU [Social Security Service] is responsible for state security broadly defined, nonmilitary intelligence, and counterintelligence and counterterrorism matters. The Ministry of Internal Affairs reports to the Cabinet of Ministers, and the SBU reports directly to the president.'[1]

3.1.2 See State police forces and Security Service of Ukraine (Sluzhba Bespeky Ukrayiny, or SBU) for further information on these subjects.

Back to Contents

### 3.2 State police forces

3.2.1 The USSD HR Report 2018 stated:

'Security forces generally prevented or responded to societal violence. At times, however, they used excessive force to disperse protests or, in some cases, failed to protect victims from harassment or violence. For example, on June 8, a group of violent nationalists from the National Druzhina organization - established with support from the National Corps - attacked and destroyed a Romani camp in Kyiv after its residents failed to respond to their ultimatum to leave the area within 24 hours. Police were present but made no arrests, and in a video of the attack posted on social media, police could be seen making casual conversation with the nationalists following the attack.'[2]

3.2.2 Since 2104, The United Kingdom, USA, Canada and the EU have all, financially and with training, supported comprehensive reform in the Ukrainian law enforcement and justice sectors[3] [4] [5] [6].

3.2.3 World Atlas stated that Ukraine had '152,000 police officers'[7] which is within the UN recommended levels of 300 police officers per 100 000 civillians[8].

3.2.4 Since 2014 women have been able to join the police force and in 2018 21% (3,100) of Kyiv's patrol police force were women[9].

3.2.5 The BBC news commented on 25 September 2015 that:

[1] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL
[2] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL
[3] Obama White House Archives, Fact Sheet: U.S. Assistance to Ukraine, 21 November 2014, URL
[4] Canada Royal Mounted Police, Current Operation, Ukraine, 23 January 2019, URL
[5] GOV.UK, UK Programme Assistance to Ukraine, 2019-19, URL
[6] EU Neighbours, EU Assistance Mission to train 200 Ukraine police […], 26 March 2018, URL
[7] World Atlas, List of Countries by Number of Police Officers, Jan 2019, URL
[8] World Atlas, List of Countries by Number of Police Officers, Jan 2019, URL
[9] PRI, Ukraine's first female police officers […], 2 August 2018, URL

‘Two thousand new patrol police are on the streets of the Ukrainian capital, Kiev - the most visible evidence that the new government is determined to take a new zero-tolerance approach to crime and corruption.

‘The experiment has been a success so far, at least in increasing public trust and interest in the police. Calls from the public requesting help have quadrupled since the newly trained recruits started work.

‘Now the reform is to be rolled out in other cities across the country.’[10]

3.2.6 Chatham House’s Research Paper, ‘Are Ukraine’s Anti-corruption Reforms Working?,’ quoting various sources, published November 2018, noted:

‘Currently operating in 33 cities, the new patrol police formed in late 2014. It initially developed a positive reputation as a body recruited, trained and managed to a higher standard than the main part of the police force, although public enthusiasm for it appears to have waned. Its creation shows that an alliance of reformers and civil society organizations, with support from international partners, can lead to new organizations that act with higher levels of integrity than those inherited from the old system. However, the patrol police, which has around 13,000 officers, is only part of the front line of the police force, and it is responsible for a small portion of the overall force’s duties. Nevertheless, its symbolic value is considerable.

‘At the same time, the old system has proven resistant to change. An effort to reassess 70,000 police officers to establish their suitability for service in the reformed police faced delay and led to only 5,000 losing their jobs. Furthermore, all were able to appeal successfully against wrongful dismissal and were reinstated because of the way the new National Police Service Law had been drafted.’[11]

3.2.7 Tetiana Gonchurak, a Ukranian independent journalist and human rights campaigner, writing on 31 January 2018 on Open Democracy, an independent global media platform, stated, ‘Two years ago, the Ukrainian government decided to create a new national police force. But aside from the name, not much has changed’.[12] Her report, Where is Ukraine’s new police force?, gave her analysis.

3.2.8 Amnesty International has criticized the police response to far-right violence against participants of the International Women’s Day marches in 2018. For further information, see: 'Ukraine: Authorities failing women's rights activistys by pandering to far-right groups'[13]

3.2.9 The official website of the National Police provided information about its structure.

3.2.10 See Country Policy and Information Note on Ukraine: Sexual orientation and gender identity for information about police treatment of LGBTI persons. See Country Policy and Information Note on Ukraine: Minority groups for information about police treatment of ethnic minority groups.

[10] BBC News, ‘On patrol with Kiev’s New Police Force,’ 25 Sptember 2015, URL
[11] Chatham House, ‘Are Ukraine’s Anti-corruption Reforms Working?,’ November 2018, URL
[12] Open Democracy, ‘Where is Ukraine’s new police force?,’ 31 January 2018 URL
[13] Amnesty International, ‘Ukraine: authorities failing women’s rights activists […],’ March 2018, URL

3.2.11 See Security apparatus: State police forces for further information about the Police. See Human rights abuses for further information on this subject.

Back to Contents

### 3.3 Security Service of Ukraine (Sluzhba Bespeky Ukrayiny, or SBU)

3.3.1 See Security apparatus: Structure for information about management of the SBU. See Arbitrary detention and Human rights abuses by the security forces for information about these subjects in connection with the SBU.

Back to Contents

### 3.4 Armed forces

3.4.1 For information about the Ukrainian armed forces, see Global Fire Power, Ukraine.

3.4.2 For information about conscription, see the Country Policy and Information Note on Ukraine: Military service.

Back to Contents

Section 4 updated: 23 April 2019

## 4. Human rights abuses by the security forces

### 4.1 Human rights abuses

4.1.1 The USSD HR Report 2018 stated:

'Although the constitution and law prohibit torture and other cruel and unusual punishment, there were reports that law enforcement authorities engaged in such abuse. While courts cannot legally use as evidence in court proceedings confessions and statements made under duress to police by persons in custody, there were reports that police and other law enforcement officials abused and, at times, tortured persons in custody to obtain confessions.

[…]

'Abuse of prisoners and detainees by police remained a widespread problem. In its report on the seventh periodic visit to the country, published on September 6, the Council of Europe's Committee for the Prevention of Torture (CPT) expressed concern over a considerable number of recent and credible allegations from detained persons regarding excessive use of force by police and physical abuse aimed at obtaining additional information or extracting a confession.'[14]

4.1.2 The USSD HR Report 2018 further stated:

'There were continued reports that authorities had used torture against individuals detained on national security grounds. According to the UN Office of the High Commissioner for Human Rights Human Rights [sic] Monitoring Mission (HRMMU) and human rights groups, most of these abuses were associated with the SBU [State Security Service]. The HRMMU noted most related cases occurred during prior years but were only documented during the year [2017]. According to a UN Subcommittee on the Prevention of

[14] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL

Torture (SPT) report released in May [2017] and based on two 2016 visits to Ukraine, the SPT "received numerous and serious allegations of acts that, if proven, would amount to torture and mistreatment. Persons interviewed by the Subcommittee in various parts of the country have recounted beatings, electrocutions, mock executions, asphyxiations, acts of intimidation and threats of sexual violence against themselves and their family members. In the light of all the work done and experience gained during the visit, the Subcommittee has no difficulty in concluding that these allegations are likely to be true. Many of the above-mentioned acts are alleged to have occurred while the persons concerned were under the control of the State Security Service or during periods of unofficial detention."

'According to Human Rights Watch, on August 15 [2017], SBU officers in Dnipropetrovsk Oblast forced 29-year-old Daria Mastikasheva out of her car, pushed her to the ground, beat her, blindfolded her, and took her to a basement facility, where she was interrogated and tortured overnight, including by suffocation, to force her to confess on video to collaborating with Russian security services. She agreed to a video confession only after the officers threatened to harm her family. At year's end Mastikasheva was awaiting trial on treason and weapons possession charges.'[15]

4.1.3 Following a visit to Ukraine in December 2017, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report in September 2018, the executive summary of which stated:

'As had been the case during the CPT's previous visit to Ukraine in 2016, the majority of persons who were, or recently had been, in police custody indicated that the police had treated them correctly. Further, no allegations of physical ill-treatment were received in respect of officers of the State Security Service of Ukraine (SSU) or of police officers performing custodial tasks in temporary holding facilities (ITTs).

'However, the delegation received a considerable number of recent and credible allegations from detained persons regarding the excessive use of force during apprehension by the police (mostly plainclothes operational officers, more rarely uniformed patrol police officers), as well as allegations of physical ill-treatment after being brought under control, mainly consisting of kicks, punches and truncheon blows, as well as too tight and prolonged handcuffing.

'Such allegations were heard more frequently in Kyiv than in other regions visited, and it was also mostly in the capital that the delegation received allegations regarding physical ill-treatment by operational officers during initial questioning, with the aim of obtaining additional information or extracting a confession; outside Kyiv, such allegations were received relatively rarely, the least frequently in Chernivtsi and Ivano-Frankivsk regions.

'Overall, the delegation gained the impression that, compared to the findings of the 2016 visit, the severity of the ill-treatment alleged had diminished.

[15] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL

However, the frequency of allegations remained at a worrying level, especially in Kyiv.'[16]

4.1.4 For further information, see Executive summary of CPT report.

4.1.5 After a visit to Ukraine in April and May 2018, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatement or punishment (OHCHR) stated the following in his preliminary observations:

'I received numerous allegations of torture and ill-treatment at the hands of the police, including against juveniles as young as 14 years-old, almost always occurring at the time of apprehension and interrogation. Most inmates reported that such treatment was used to intimidate them or to force them to confess an alleged crime. In addition to threats and insults, police forces reportedly resorted to kicking and beating, used suffocation techniques, most notably by placing plastic bags over the head, suspension and prolonged stress position. Numerous inmates also reported having been electrocuted and, in some cases, subjected to mock executions. Several detainees showed signs of depression and post-traumatic stress disorder and some still displayed visible marks of ill-treatment and torture. Others reported having been subjected to techniques of torture specifically designed to leave no marks.[…] I have not met any detainees held in local police stations in the course of my visit. However, a number of inmates whom we interviewed claimed to have been detained and ill-treated for several days in unofficial places of detention before being officially apprehended by the police.'[17]

4.1.6 The Special Rapporteur further stated, 'In some institutions, I have also noted a perceptible reluctance of victims to speak about ill-treatment, both because of their fear of reprisals and their general distrust in the ability and willingness of the judicial authorities to hear their claims.'[18]

4.1.7 In the World Report 2019, which covered events of 2018, Human Rights Watch (HRW) stated:

'Ukraine's Security Service (SBU) continued to deny the secret and prolonged detention of 18 civilians in its Kharkiv secret detention facility from 2014 to 2016. All 18 were unofficially freed by the end of 2016 and their detention was never acknowledged.

'In February, one of the former detainees, Konstantyn Beskorovaynyi, was reinstated as a plaintiff in a case he filed with the prosecutor's office in July 2016. In March, a court ruled to reopen the criminal investigation. Investigations are stalled in the cases of four others who filed complaints.'[19]

4.1.8 The USSD HR Report 2018 stated:

'The constitution prohibits [Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence], but there were reports authorities generally did not respect the prohibitions.

[16] CPT, Executive summary of report following visit of December 2017, 6 September 2018, URL
[17] OHCHR, 'Preliminary observations and recommendations […],' 24 May 2018, URL
[18] OHCHR, 'Preliminary observations and recommendations […],' 24 May 2018, URL
[19] HRW, World Report 2019, Ukraine, 17 January 2019, URL

‘By law, the SBU may not conduct surveillance or searches without a court-issued warrant. The SBU and law enforcement agencies, however, sometimes conducted searches without a proper warrant. In an emergency authorities may initiate a search without prior court approval, but they must seek court approval immediately after the investigation begins. Citizens have the right to examine any dossier in the possession of the SBU that concerns them; they have the right to recover losses resulting from an investigation. There was no implementing legislation, and authorities generally did not respect these rights, and many citizens were not aware of their rights or that authorities had violated their privacy.

‘There were some reports that the government had accessed private communications and monitored private movements without appropriate legal authority. For example on April 26, a judge of the Uzhhorod city court complained of illegal surveillance. Representatives of the National Guard who were entrusted with guarding the court premises had allegedly installed a listening device in his office. Police opened an investigation into the complaint.’[20]

4.1.9 See also Conditions of detention and Arbitrary detention for further information about human rights abuses.

Back to Contents

## 4.2 Investigation of human rights abuses and impunity

4.2.1 The USSD HR Report 2018 stated:

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

‘Impunity for abuses by law enforcement agencies remained a significant problem that was frequently highlighted by the HRMMU in its reports as well as by other human rights groups. The HRMMU noted authorities were unwilling to investigate allegations of torture and other abuses, particularly when the victims had been detained on grounds related to national security or were seen as pro-Russian.

‘While authorities sometimes brought charges against members of the security services, cases often remained under investigation without being brought to trial while authorities allowed alleged perpetrators to continue their work. According to an April report by the Expert Center for Human Rights, only 3 percent of criminal cases against law enforcement authorities for physical abuse of detainees were transferred to court. In addition, human rights groups criticized the lack of progress in investigations of alleged crimes in areas retaken by the government from Russia-led forces, resulting in continuing impunity for these crimes. In particular, investigations of alleged crimes committed by Russia-led forces in Slovyansk and Kramatorsk in 2014 appeared stalled. Human rights groups believed that many local law enforcement personnel collaborated with Russia-led forces when they controlled the cities.’[21]

[20] USSD HR Report 2018, Ukraine, Section 1.f, 13 March 2019, URL
[21] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL

4.2.2 In their report of December 2018, OHCHR stated:

'OHCHR notes that the investigation into the killing of one protester near the SBU office in Khmelnytskyi on 19 February 2014 has stalled. After being deployed to the Joint Forces Operation area in eastern Ukraine, the suspect remained unreachable for the investigation and as a result on 30 July 2018, was put on a wanted list. As of the date of this report, the suspect has not been apprehended despite the obligation of his military commanders to facilitate investigations.

'OHCHR noted that, on 31 October, the Special Investigations Department of the Prosecutor General's Office charged an Internal Troops sniper of killing a protester at Instytutska Street in Kyiv in the morning of 20 February 2014. On 3 November, he was placed in custody for 60 days.

'Meanwhile, the trial in the case of the killing of 47 other protesters killed at Instytutska Street on the same date is ongoing. OHCHR notes that the protracted trial lasting for almost four years has not only affected the rights of the victims, but also those of the five defendants who have remained in detention, two for more than 4.5 years and three for almost four years.'[22]

4.2.3 In the same report, OHCHR further noted:

'OHCHR noted no substantial progress in the investigations and legal proceedings connected to the violent events of 2 May 2014 in Odesa, which led to the death of 48 people, with no one yet held accountable for any of these acts.

'On 26 October 2018, the Kyivskyi district court of Odesa ruled to return to the prosecutor's office the indictment against three fire brigade officials accused of negligence of their duties. This is the second time the indictment has been returned since the case was brought to court in 2016. In the case against the only "pro-unity" activist accused of killing, three court hearings were adjourned due to the failure of victims to appear and dismissal of the presiding judge. On 15 November 2018, the court granted the defence's motion regarding the case to be considered by the jury trial.

'No progress was achieved in the appeal proceedings against the acquittal of 19 individuals accused of mass disturbances in the Odesa city centre on 2 May 2014, which resulted in the killing of six men. On 5 October 2018, the Court of Appeal for Mykolaiv region ruled to issue a writ of attachment for the seven acquitted who regularly failed to appear in the Court, ensuring their presence to avoid further delays. Only three of them appeared for the next hearing on 12 November, which was adjourned because one judge from the panel was ill.'[23]

4.2.4 Radio Free Europe/Radio Liberty (RFE/RL) published an article in November 2018 which stated:

'There has […] been dissatisfaction with the pace of arrests of those responsible for the 100 protester deaths during Euromaidan, during which 13 security forces were also killed.

[22] OHCHR, 'Report on the human rights situation […],' 17 December 2018, paragraphs 64 to 66, URL
[23] OHCHR, 'Report on the human rights situation […],' 17 December 2018, paragraphs 67 to 69, URL

‘Serhiy Horbatiuk, chief of the special investigations directorate of Ukraine's Prosecutor-General's Office, said on November 21 that investigators are probing 470 crimes committed against demonstrators during the uprising.

‘He added that some 289 cases have been sent to the courts and 52 people have thus far been found guilty. Nine people have been given jail sentences.

‘But Horbatiuk said he was surprised that 33 suspects are still serving in the Interior Ministry and national police force, many in administrative posts. He criticized the courts for their slow pace in prosecuting the cases.

‘"The investigations into the Euromaidan crimes have not become a government priority," Horbatiuk said.’[24]

4.2.5 For information about abuses by both government and Russian-backed forces in Crimea and the Donbas, see the Country Policy and Information Note on Ukraine: Crimea, Donetsk and Luhansk.

Back to Contents

## 4.3 Avenues of redress

4.3.1 In May 2018, the UN Special Rapporteur on torture stated the following after his visit to Ukraine:

‘[…] despite persistent allegations of systematic torture and other ill-treatment made in relation to the aftermath of the conflict of 2014, formal investigations and prosecutions of such allegations appear to be rare, thus creating a strong perception of de facto impunity for acts of torture and other ill-treatment. […] Several interviewees who had filed a complaint for acts of torture with the Office of the Prosecutor reported that law enforcement officials intimated them or their relatives, pressuring them to withdraw their complaints. Furthermore, the forensic expert accompanying my mission noted that medical personnel often lacked the expertise to conduct efficient and genuine documentation of acts of torture. Interviewees further reported that lawyers – state or private - did not make any real efforts to present their case. I also note with concern that detainees do not appear to have access to their personal medical and judicial records. In some cases, that I have been able to verify, these records seemed to have been tampered with a view to conceal potential evidence of torture and other ill-treatment. This observation concerns particularly the documentation of physical injuries, which is does not appear to be systematically undertaken, or not in accordance with the international standards set forth in the Istanbul Protocol’.[25]

4.3.2 The USSD HR Report 2018 stated, ‘Under the law members of the parliament have authority to conduct investigations and public hearings into law enforcement problems. The human rights ombudsman may also initiate investigations into abuses by security forces.’[26]

4.3.3 In October 2018, Euromaidan Press reported on the creation of the State Bureau of Investigation:

[24] RFE/RL, ‘Ukraine Marks Euromaidan's Fifth Anniversary […],’ 21 November 2018, URL
[25] OHCHR, ‘Preliminary observations and recommendations […],’ 24 May 2018, URL
[26] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL

'A new law enforcement institution is to be created in Ukraine for the purposes of tackling problems related to crimes committed by top officials, law enforcement officials, military officers and judges. The creation of the State Bureau of Investigation (SBI) will lead to changes for other law enforcement agencies in Ukraine. […]

'SBI is a central body of executive power in the structure of the Cabinet of Ministers. Ukraine pledged to create it when entering the Council of Europe. Liemenov [Oleksandr Liemienov, a co-founder of StateWatch and the head of a Internal Competition Commission of the SBI] explains that the new institution will take over investigative functions from the Prosecutor General Office (PGO). Only public prosecution in court and a procedural guidance of investigations will be left for the PGO. […]

'Regarding corruption, the new bureau will be dealing with cases involving amounts of up to UAH 800,000 ($28,300), meaning B category corruption. Investigation of top corruption cases (over $28,300) will be assigned to the National Anti-Corruption Bureau, with low level corruption cases left in the police's hands.

'In general, the newly created agency will be dealing with crimes committed by ex-presidents, MPs, judges, law enforcement officials, top state officials, including the Anti-Corruption Bureau and the Specialized Anti-Corruption Prosecutor's Office. […]

'Liemenov explains that launching the SBI is a complex reform in itself. It will also lead to changes within the Security Services of Ukraine (SSU) and the National Police. Creating the SBI should also lead to the elimination of the military prosecutor's office – after the launch, the new institutions will be dealing with military crimes.'[27]

Back to Contents

### 4.4 Training for security forces

4.4.1 The USSD HR Report 2018 stated:

'The Ministry of Internal Affairs indicated it provides 80 hours of compulsory human rights training to security forces, focusing on the principles of the European Convention on Human Rights and Fundamental Freedoms. Law enforcement training institutions also include courses on human rights, rule of law, constitutional rights, tolerance and nondiscrimination, prevention of domestic violence, and freedom from cruel, inhuman, or degrading punishment.'[28]

Back to Contents

Section 5 updated: 23 April 2019

## 5. Arrest and detention

### 5.1 Legal rights

5.1.1 The USSD HR Report 2018 stated:

[27] Euromaidan Press, 'Ukraine may lose key new investigative institution […],' 29 October 2018, URL
[28] USSD HR Report 2018, Ukraine, Section 1.c, 13 March 2019, URL

‘By law, authorities may detain a suspect for three days without a warrant, after which a judge must issue a warrant authorizing continued detention. Authorities in some cases detained persons for longer than three days without a warrant.

‘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 ones. Persons have the right to consult a lawyer upon their detention. According to the law, prosecutors may detain suspects accused of terrorist activities for up to 30 days without charges or a bench warrant. Under the law, citizens have the right to be informed of the charges brought against them. Authorities must promptly inform detainees of their rights and immediately notify family members of an arrest. Police often did not follow these procedures. Police at times failed to keep records or register detained suspects, and courts often extended detention to allow police more time to obtain confessions. In its September report, the CPT expressed concern about a widespread practice of unrecorded detention, in particular, the unrecorded presence in police stations of persons “invited” for “informal talks” with police, and noted that they encountered several allegations of physical mistreatment that took place during a period of unrecorded detention. Authorities occasionally held suspects incommunicado, in some cases for several weeks.

[…]

‘The law provides for bail, but many defendants could not pay the required amounts. Courts sometimes imposed travel restrictions as an alternative to pretrial confinement.’[29]

Back to Contents

## 5.2 Conditions of detention

5.2.1 The Office of the United Nations High Commissioner for Human Rights (OHCHR) published a report on the human rights situation in Ukraine from 16 August to 15 November 2018 which stated:

‘In Government-controlled territory, OHCHR enjoyed access to official places of detention and the ability to conduct confidential interviews with detainees in line with international standards. During the reporting period, OHCHR interviewed 67 conflict-related detainees (64 men and three women) in pre-trial detention facilities in Starobilsk, Bakhmut, Kharkiv, Mariupol, Zaporizhzhia, Vilniansk, Dnipro, Kyiv, Mykolaiv, Odesa and colony in Kharkiv.

‘During the reporting period, OHCHR received information indicating that pre-trial detention facilities in Kharkiv, Zaporizhzhia, Vilniansk, Dnipro, Mariupol, Odesa had a lack of medical personnel, scarce medical supplies, and unavailability of medical services during evening hours and weekends, contributing to the deterioration in the health condition of prisoners, including conflict related detainees.’[30]

[29] USSD HR Report 2018, Ukraine, Section 1.d, 13 March 2019, URL
[30] OHCHR, ‘Report on the human rights situation […],’ 17 December 2018, paragraphs 44 to 45, URL

5.2.2 In May 2018, the UN Special Rapporteur on torture stated the following after his visit to Ukraine:

'In the course of my visit, I received numerous complaints from detainees about the perceived excessiveness of their pre-trial detention and the absence of judicial action taken on the part of the adjudicating authorities. Alternative measures to detention were reported to be used in exceptional cases only, accompanied by serious deficiencies in terms of expediting criminal proceedings. The regime for pre-trial detainees is significantly more restrictive than the regime applied to convicted detainees, including very limited contact with family members, a strict regime regarding food parcels, and the prohibition of paid work. Visits, telephone calls and letters are only allowed with the express permission of investigating officers. For detainees accused of crimes in connection with the armed conflict, who undergo lengthy investigations, the resulting isolation from the outside world is often additionally prolonged'.[31]

5.2.3 The same report stated:

'[M]ost of the detention infrastructure is very old and in dire need of renovation or replacement. Some cells and pavilions we visited had poor sanitary conditions. Some detainees reported that their cells were poorly heated and infested with cockroaches.[…] In most of the visited remand prisons and colonies the occupancy rate was smaller than the maximum capacity of the institution, there was therefore no overcrowding. However, the official capacity of detention places appears to be calculated on the basis of available beds rather than available space per inmate, which in some facilities results in available surface areas as small as 2m2 or less per inmate, in clear contravention to universally applicable Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules).Blankets and mattresses were available, although many were old and in need of replacement. […] Most hygienic products including toilet paper and soap reportedly were not provided by the administration and detainees highly rely on outside support including family contributions or donations from humanitarian organizations to maintain tolerable living conditions. This is also particularly the case for the specific needs of female detainees. All detainees reported to receive three meals a day, although in most places the food was described as "inedible". As a consequence, most inmates relied on supplementary food they received through family parcels'.

5.2.4 The same report further stated:

'Despite a high prevalence of drug addiction, special treatment for drug addiction is either lacking or is terminated upon entry into a place of detention. The procurement of medication for prisoners with HIV and multi-resistant tuberculosis seemed adequate for sentenced detainees but difficult to access for pre-trial detainees. I am also concerned by the apparent shortage in mental health professionals including psychologists or social workers. While I welcome the envisaged transfer of responsibility for health care from the penitentiary administration to the Ministry of Health, I note with concern the reported reluctance of some concerned authorities in completing

[31] OHCHR, 'Preliminary observations and recommendations […],' 24 May 2018, URL

this crucial change. The current unclear supervisory chain of health professionals in detention centres may impede them from documenting and reporting torture or ill-treatment resulting injuries.'

5.2.5 In the same report, the Special Rapporteur further stated:

'I also note with concern the failure of medical staff to conduct thorough medical examination of detainees, despite existing regulations. Medical staff was reported not to inquire about injuries or probe further for explanations. Many medical personnel are generally unfamiliar with the Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), and in some places of detention do not consider it their duty to question whether injuries observed may be the result of torture and ill-treatment.' [32]

5.2.6 See also Human rights abuses by the security forces and Arbitrary detention for further information about human rights abuses.

Back to Contents

## 5.3 Arbitrary detention

5.3.1 In 2019, OHCHR expressed its concern 'about the practice of arbitrary arrest, incommunicado detention, torture and ill-treatment of civilians in government-controlled territory. During the reporting period [16 November 2018 to 15 February 2019], OHCHR documented two cases of arbitrary detention of civilians allegedly by officers of the Security Service of Ukraine (SBU)'.[33]

5.3.2 The same report stated:

'In at least two cases, documented during the reporting period, victims were arbitrarily arrested during daytime allegedly by SBU officers. OHCHR received information that several SBU officers in camouflage uniforms, armed with machine guns entered the house of an Armenian national and asylum seeker in Ukraine, in Svitlodarsk on 13 December 2018. SBU searched his house without a warrant and seized his electronic equipment and documents. They threatened to deport him to Azerbaijan or Crimea, and his family to "no man's land". He told OHCHR that they then handcuffed him, put a bag over his head and took him to a basement, where they interrogated him, accusing him of espionage for the Russian and Armenian intelligence. He said SBU officers periodically beat him, each time for 20-30 minutes, to force him to confess. The man agreed to confess to the SBU accusations on video camera after being threatened at gun point. Two day later, they took him to Kyiv, held him in an apartment and continued to beat him, inflicting severe pain and leaving numerous bruises on his body. On 17 December, SBU officers took him to a hospital for his injuries, registering him under a fake name. He said doctors recommended hospitalization, but SBU officers took him to another apartment and held him there for around two weeks. At one point, he did not receive food for two days. Finally, on 29 December, the SBU released him, telling him to keep silent about his ordeal.

[32] OHCHR, 'Preliminary observations and recommendations […],' 24 May 2018, URL
[33] OHCHR, 'Report on the human rights situation […],' 15 February 2019, paragraph 10, URL

'In another case, on 15 November 2018, two men, allegedly SBU officers, wearing camouflage and masks detained a Russian citizen in Kyiv. They handcuffed him and took him to an unknown location. On 23 November, after the man's wife reported his disappearance, the police opened a criminal investigation, but closed it five days later. On 26 December, a prosecutor's office instructed the police to reopen the investigation. On 30 December, the man's personal information (name, surname, date of birth, and alleged criminal charges) appeared on the Myrotvorets website. As of 15 February 2019, his relatives have no information about his whereabouts'.[34]

5.3.3 In a report published in December 2018, the OHCHR stated, 'During the reporting period [August to November 2018], OHCHR documented cases when people were detained by the State Security Service (SBU) and charged with financing terrorism for owning businesses and/or paying "taxes" in territory controlled by "Donetsk people's republic" and "Luhansk people's republic". OHCHR is concerned that such practice may continue and more people can be detained under the same charges.'[35]

5.3.4 For further information about the State Security Service, see Security Service of Ukraine (Sluzhba Bespeky Ukrayiny, or SBU). For further information about human rights abuses, see Conditions of detention and Human rights abuses by the security forces. For further information about the Donbas, see the Country Policy and Information Note on Ukraine: Crimea, Donetsk and Luhansk.

Back to Contents

Section 6 updated: 23 April 2019

## 6. Rule of law and the judiciary

### 6.1 Structure

6.1.1 Justice in Ukraine is carried out exclusively by courts which, acccording to the Constitution, are independent from other bodies. The jurisdiction of courts extends to all relations in the territory of the State[36].

6.1.2 A new law on judicial system was adopted by Parliament in June 2016 and replaced the previous four-tier court system with a three-tier one and provided for the new structure of the Supreme Court. The court system consists of local courts, courts of appeal, high-specialized courts focused on corruption and the protection of intellectual property rights and the Supreme Court of Ukraine[37].

Back to Contents

### 6.2 Trial procedures

6.2.1 The USSD HR Report stated:

'A single judge decides most cases, although two judges and three public assessors who have some legal training hear trials on charges carrying the maximum sentence of life imprisonment. The law provides for cross-

[34] OHCHR, 'Report on the human rights situation […],' 15 February 2019, paragraphs 48 to 50, URL
[35] OHCHR, 'Report on the human rights situation […],' 17 December 2018, paragraph 48, URL
[36] Hauser global Law School Programme, A Research Guide to Ukrainian Law, June 2017, URL
[37] Hauser global Law School Programme, A Research Guide to Ukrainian Law, June 2017, URL

examination of witnesses by both prosecutors and defense attorneys and for plea bargaining.

'The law presumes defendants are innocent, and they cannot be legally 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 of the charges against them, with interpretation as needed; to a public trial without undue delay; to be present at their trial, 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 to confront witnesses against them, to present witnesses and evidence, and the right to appeal. 'Trials are open to the public, but some judges prohibited media from observing proceedings. While trials must start no later than three weeks after charges are filed, prosecutors seldom met this requirement. Human rights groups reported officials occasionally monitored meetings between defense attorneys and their clients.'[38]

Back to Contents

## 6.3 Independence and effectiveness of the judiciary

6.3.1 According to the World Justice Project Rule of Law Index 2017-18, out of 113 countries Ukraine was ranked 77th according to its rule of law requirements implementation[39] and 101st out of 109 countries by the Index of Public Integrity 2017 for its judicial independence[40].

6.3.2 The USSD HR Report 2018 stated that 'courts were inefficient and remained vulnerable to political pressure and corruption. Confidence in the judiciary remained low.'[41] The same report stated:

'There were some reports that the government had accessed private communications and monitored private movements without appropriate legal authority. For example on April 26 [2018], a judge of the Uzhhorod city court complained of illegal surveillance. Representatives of the National Guard who were entrusted with guarding the court premises had allegedly installed a listening device in his office. Police opened an investigation into the complaint.'[42]

6.3.3 In the 'Nations in Transit 2018' report, Freedom House stated:

'Persistent political capture of the country's judicial system continued to pose a threat to the implementation of other reforms in Ukraine, including anticorruption efforts, throughout 2017.

'In 2015, Ukraine approved the Strategy for Reform of the Judicial System. This outlined the main priorities for 2015–20, including ensuring judicial independence, improving judicial governance, increasing the judiciary's transparency and professionalism, and building public trust in the justice system. In 2017, Ukrainians' trust in the judiciary remained low: only 7 percent trust the courts, and only 9.5 percent trust prosecutors. Businesses'

[38] USSD HR Report 2018, Ukraine, Section 1.e, 13 March 2019, URL
[39] World Justice Project, Rule of Law Index, 2017/18, URL
[40] Index of Public Integrity, 2017, Judicial Independence, URL
[41] USSD HR Report 2018, Ukraine, Section 1.e, 13 March 2019, URL
[42] USSD HR Report 2018, Ukraine, Section 1.f, 13 March 2019, URL

level of trust in the justice system is, on average, 1.82 on a 5-point scale, with corruption, inefficiency of the court system, and overloaded courts seen as the main reasons for a lack of fair justice. On 30 September 2016, the laws that launched Ukraine's judicial reform came into force. For 2017, the reform prescribed the selection of new Supreme Court judges, introduction of judge qualifications at different levels, formation of an anticorruption court, introduction of electronic tools in the judicial system, and improvement of the legal framework for further reform. On 3 October [2017], the parliament passed amendments to various procedural codes that further advanced judicial reform.

'As part of the reform, the High Qualification Commission of Judges of Ukraine conducted an open competition for new justices to the Supreme Court, in which 1,436 applicants competed for positions. On 29 September [2017], the commission submitted 111 candidates for presidential approval. However, on 3 October [2017], the Public Council on Integrity called on President Poroshenko not to approve the proposed candidates, as 25 of them had not passed the integrity qualifications. The Public Integrity Council alleged that these candidates had previously engaged in politically motivated decisions, bans of public assemblies, violations of human rights, or had not fulfilled their income-declaration requirements with sufficient transparency. In addition, the council criticized some of the selection procedures and appealed to the president to conduct an independent audit of the process.

'The vetting of judge qualifications for different positions continued throughout the year. The overall number of judges continued to decline, and more than 3,000 judges have resigned, while 172 were fired due to disciplinary actions. As a result of the requirement for more transparent income declarations, over 1,000 judges voluntarily resigned from their positions.'[43]

6.3.4 The report also referred to the impact of the justice system on work to combat corruption:

'Still, the ineffectiveness of the judicial system threatens achievements in anticorruption reform. Newly created bodies like the National Anticorruption Bureau of Ukraine (NABU) and the Special Anticorruption Prosecutor's Office face significant impediments in bringing cases to court. Only 27 convictions arose from 107 criminal proceedings that went to trial. The Law on the Judiciary and Status of Judges, adopted together with the package of constitutional amendments in 2016 as part of the wider judicial reform, recommended the establishment of the High Anticorruption Court under a separate law. Despite the president's publicly declared interest in creating an anticorruption court, civil society organizations (CSOs) have accused Poroshenko of trying to postpone the legislative approval process. As a result of pressure from CSOs and international donors, and following a Venice Commission recommendation, the president introduced draft legislation at the end of the year, which international institutions criticized for its envisaged selection procedure for judges, proposed jurisdiction of the

[43] Freedom House, 'Nations in Transit 2018,' Ukraine, 11 April 2018, Judicial Framework […], URL

court, and possible further delays in implementing the legislation. By year's end, five alternative drafts were registered by the president and MPs.

'In April, the parliament voted against the Law on the Constitutional Court, which tried to bring legislation governing the Constitutional Court in line with the 2016 constitutional amendments, thereby stemming attempts to make this institution more independent. The parliament reviewed and approved another draft law on the Constitutional Court in July [2017]. Experts criticized this draft law for not establishing clear procedures for the competitive selection of judges.'[44]

Back to Contents

## 6.4 Access

6.4.1 In its June 2017 paper, 'Opinion on the Law of Ukraine on the Judiciary and the Status of Judges,' the Office for Democratic Institutions and Human Rights noted that the law 'guarantees to everyone the protection of his/her rights within a reasonable time by an "independent, impartial and fair court", equal protection and access to court.'[45]

Back to Contents

## 6.5 Legal aid and other assistance

6.5.1 The USSD HR Report 2018 stated: 'Under the law the government must provide attorneys for indigent defendants. Compliance was inconsistent because of a shortage of defense attorneys or because attorneys, citing low government compensation, refused to defend indigent clients.'[46]

Back to Contents

## 6.6 Lawyers

6.6.1 In a report published in December 2018, OHCHR stated:

'In a worrying trend, OHCHR documented continued attacks on lawyers representing defendants charged with crimes against national or public security. On 28 September [2018], approximately 15 members of the extreme right-wing group C14 physically attacked a lawyer defending a local journalist accused of high treason for his publications and assaulted another journalist observing the trial – as observed by OHCHR in Koroliovskyi district court of Zhytomyr. Police who arrived after the incident did not apprehend the perpetrators, allowing them to stay in the courtroom when the hearing resumed after the break.'[47]

Back to Contents

## 6.7 Violation of rights

6.7.1 The Office of the United Nations High Commissioner for Human Rights (OHCHR) '[…] continued documenting violations of the right to a fair trial of individuals charged with conflict-related criminal cases, in particular those

[44] Freedom House, 'Nations in Transit 2018,' Ukraine, 11 April 2018, Judicial Framework […], URL
[45] Office for Democratic Institutions and Human Rights, 'Opinion on the Law […],' 30 June 2017, URL
[46] USSD HR Report 2018, Ukraine, Section 1.e, 13 March 2019, URL
[47] OHCHR, 'Report on the human rights situation […],' 17 December 2018, paragraph 60, URL

related to forced confessions and violation of presumption of innocence. Physical attacks against lawyers dealing with such cases remain a concern.'[48]

6.7.2 In February 2019, OHCHR expressed its concern that 'protracted trials in conflict-related criminal cases might be caused, inter alia, by the lack of judges. In the majority of conflict-related criminal cases, the courts schedule hearings only once every month or two'.[49]

6.7.3 In February 2019, OHCHR's report on human rights from 16 November 2018 to 15 February 2019 stated:

'OHCHR notes the persistent practice of prolonged pre-trial detention and the use of pressure to obtain forced confession or plea bargains. OHCHR documented 89 violations of the right to a fair trial in conflict-related criminal cases. During the reporting period, OHCHR continued to observe a worrying trend of convicting individuals affiliated or linked with armed groups of "Donetsk people's republic" and "Luhansk people's republic" based on guilty pleas and confessions without material evidence. In 35 out of 60 verdicts in conflict-related criminal cases, defendants pled guilty or admitted guilt. In 24 out of those 35 cases prosecutors presented no material evidence, giving rise to concerns about substantiality of the charges. In four cases defendants were sentenced to as much time as they had already spent in pre-trial detention and were thus immediately released. OHCHR is concerned that defendants could see pleading guilty to a crime as the only way to be released from detention in the context of a protracted trial. The wide application of plea bargains in conflict-related criminal cases is problematic due to the practice of coercing defendants to admit guilt, including through the use of physical violence, as documented by OHCHR'.[50]

6.7.4 Freedom House stated, 'Although due process guarantees exist, in practice individuals with financial resources and political influence can escape prosecution for wrongdoing.'[51]

Back to Contents

## 6.8 Avenues of redress

6.8.1 The USSD HR Report 2018 stated:

'The constitution and law provide for the right to seek redress for any decisions, actions, or omissions of national and local government officials that violate citizens' human rights. An inefficient and corrupt judicial system limited the right of redress. Individuals may also file a collective legal challenge to legislation they believe may violate basic rights and freedoms. Individuals may appeal to the human rights ombudsman at any time and to the ECHR after exhausting domestic legal remedies.'[52]

Back to Contents

[48] OHCHR, 'Report on the human rights situation […],' 17 December 2018, paragraph 10, URL
[49] OHCHR, 'Report on the human rights situation […],' 15 February 2019, paragraph 67, URL
[50] OHCHR, 'Report on the human rights situation […],' 15 February 2019, paragraphs 62 to 64, URL
[51] Freedom House, 'Freedom in the world 2019,' Ukraine, Section F2, 4 February 2019, URL
[52] USSD HR Report 2018, Ukraine, Section 1.e, 13 March 2019, URL

Section 7 updated: 30 January 2019

## 7. Crimea, Donetsk and Luhansk

7.1.1 See Country Policy and Information Note on Ukraine: Crimea, Donetsk and Luhansk for information about security and justice in these areas of the country.

Back to Contents

# Terms of Reference

A ‘Terms of Reference’ (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office’s Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Security apparatus
    - Structure
    - State police force
    - Security service of Ukraine (Sluzhba Bespeky Ukrayiny, or SBU)
    - Armed forces
- Human rights abuses by the security forces
    - Human rights abuses
    - Investigation of human rights abuses and impunity
    - Avenues of redress
    - Training for security forces
- Arrest and detention
    - Legal rights
    - Conditions of detention
    - Arbitrary detention
- Rule of law and the judiciary
    - Trial procedures
    - Independence and effectiveness of the judiciary
    - Legal aid and other assistance
    - Lawyers
    - Violation of rights
    - Avenues of redress
- Crimea, Donetsk and Luhansk

Back to Contents

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Back to Contents

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Back to Contents

# Version control

## Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **13 May 2019**

Back to Contents

## Changes from last version of this note

Updated country information and use of new template.

Back to Contents