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Ukraine Detention Profile

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Ukraine is a key source and transit country for irregular migrants attempting to enter the European Union (EU). In recent years, particularly since the extension of the passport-free Schengen zone in 2007, Ukraine has increased efforts to police the borders it shares with neighbouring countries in the EU—in particular, [Poland](#), [Slovakia](#), and [Hungary](#). The country has used EU money and partnered with local non-profits and international organizations like the International Organisation for Migration (IOM) to expand its detention capacity, refurbish facilities, and/or provide humanitarian services. Despite these efforts, observers continue to characterize Ukraine's detention facilities as very poor, pointing to severe overcrowding, insufficient medical care, and prolonged detention, among other problems.

Detention Policy

Principle norms. The principle norms applicable to the administrative detention of non-citizens are contained in, among others: the [Law on Immigration \(LI\)](#) (2001); the [Law on Citizenship](#) (2001); the [Law on Militias](#); the [Code of Administrative Violations \(CAV\)](#) (1984); the [Law on Refugees \(LR\)](#) (2001 as amended in 2005); the [Law on the Legal Status of Foreigners and Stateless Persons \(LSF\)](#) (1994 as amended in 2007); and the [Rules of Entry of Foreigners to Ukraine, their Departure from Ukraine, and Transit Travel via the Territory of the Country](#) (1995 as amended in 2000).

Foreign nationals can be expelled and/or placed in administrative detention for a number of immigration-related infractions, including: attempting to enter the country without proper documentation; committing certain categories of crimes; being in the country irregularly; and posing a threat to security, public order, or health (LSF, Art. 32).

A number of immigration related offences are subject to sanctions. Persons considered to be in violation of rules for staying in Ukraine can be fined (CAV, Art. 203). Illegal entry or border crossing can be punishable by a fine, correctional labour, and administrative arrest (CAV, Art. 204-1; LR, Art. 9).

Asylum seekers are specifically exempted from sanctions by both the Administrative Code and the Law on Refugees (CAV, Art. 203; LR, Art. 9)

Persons accused of administrative offences have a number of rights, including: a review of evidence against them, legal counsel, legal appeal, and interpretation services (CAV, Arts. 267, 268, 270, 271, 274, 275). In addition, administrative detainees have the right to inform a relative or third party of their detention ([Order No. 494 of the Border Guard Service of 30 June 2004](#), section 14.11). Outside observers, including the European Committee for the Prevention of Torture (CPT), have reported that persons are often not able to effectively avail themselves of these rights (CPT 2009a, paras. 77-81; HRW 2005, p. 40).

Immigration agencies. Ukraine is notorious for frequently reorganizing its government ministries and their responsibilities, making it challenging to pin down which agencies are undertaking which activities at any given moment, in particular with respect to immigration and asylum policies (Zimmer 2008, p. 4; ICPS/IPA 2006, p.27-28; HRW 2005, p. 25-27). Such changes have also led to some confusion regarding which agency/department is responsible for certain migrant detention centres (CPT 2007, para. 61). This situation has spurred a debate over whether the country should create a unified authority responsible for migration policy (see Oliynyk 2006, p. 6).

Among the governmental agencies/departments involved in carrying out immigration control measures are the State Border Guard Service (SBGS), an independent agency subordinated to the president and responsible for short-term temporary detention centres, and the militia, part of the Ministry of the Interior (MOI). Both agencies are empowered to detain non-citizens caught trying to enter the country illegally. The Security Service of Ukraine (SSB) can also be involved in the detention of non-citizens in relation to its efforts to

combat transnational organized crime (Law of the Ukraine On the State Border Zone Service N° 661,-IV of 03.04.03; Law on Militias, N°565-XII of 20.12.90).

The coordination of migration control efforts falls mainly to the MOI, working in cooperation with the SBGS and the SSB. The ministry is responsible for the registration of foreign nationals; the apprehension, processing of administrative procedures, and deportation of irregular migrants (Law on Militias, N°565-XII of 20.12.90); as well as counter-trafficking activities.

Length of detention. State border guards and the militia are authorized to detain persons caught at the border—including within a 50-kilometer border zone—for an initial interview period of up to three hours in screening rooms located at “specially-equipped premises” (SPs) (GDISC 2009b). These screening rooms are located within “temporary holding facilities” (THFs) of border guard detachments and at checkpoints along Ukraine’s borders (Soos 2009b).

After this initial three-hour period, foreign nationals can be held in special rooms of SPs for up to three days in order to verify their identities, provided the public prosecutor is notified within 24 hours (GDISC 2009b). If the person does not have identifying documents or if authorities are unable to verify a person’s identity, he/she is to be moved to a temporary holding facility (THF) for a period not exceeding seven days, provided there is written authorization from the public prosecutor (CAV, Article 263). This means that under law, the limit on detention in these facilities is 10 days. In practice, however, prolonged detention does occur at these facilities. At the SP and THF in Chop (in the Ukraine-Hungary-Slovakia border area), for example, migrants have been detained for up to three months (Dasney 2009a, CPT 2009a).

After the initial 10-day period has passed, non-citizens who are to remain in administrative detention are to be transferred to one of the country’s two “migrant accommodation centres” (MAC). These secure centres are primarily used to confine foreign nationals found to be illegally residing in Ukraine and awaiting deportation. They are also used to house asylum seekers while a decision is made on their application by the State Committee on Nationalities and Religions (SCNR). Following a 2003 amendment to Section 32 of the Law on the Legal Status of Foreigners and Stateless Persons, the maximum limit of detention is six months (LSF, Article 32). Once this time has passed, detainees must be released.

While the government of Ukraine has been lauded for implementing this time limit on detention, concerns have been raised over what happens to persons once they are released. There have been instances where non-citizens who had been granted temporary stay permits were re-apprehended by the police or border guards and detained for several additional months (Dasney 2009a).

Refugees and asylum. The Law on Refugees (LR) was adopted in 1993 and amended a number of times, notably in 2003—a year after Ukraine acceded to the Refugee Convention—and 2005. While the 1993 law reflected some of the basic provisions of the [Refugee Convention](#), it did not define the asylum procedures to be followed. The legal mechanism for asylum applications was established in the 1994 Law on the Legal Status of Aliens (HRW 2005, p. 24).

Following a 2005 amendment to the Refugee Law, persons with the intention of applying for refugee status must do so within 15 days of entering the country through an officer of the State Committee on Nationalities and Religions, the Ministry of the Interior, or through the border guard (Article 9). Many asylum applicants are arrested attempting to cross the border into the EU. They are then confined at border facilities or migrant accommodation centres (Zimmer 2008).

The detention of asylum seekers has been criticized for preventing proper access to asylum procedures. Common concerns include unnecessarily prolonged detention, denial of access to refugee status determination procedures, and the absence of legal assistance and other aid, such as proper translation of asylum seeker rights. A 2009 report by the [Working Group on Arbitrary Detention](#) highlighted that a legal aid system does not apply to irregular migrants in detention (WGAD 2009; DoS 2008; Düvell 2007).

In 2007, the UN Committee Against Torture (CAT) stated: “The Committee is concerned about the discrimination that asylum-seekers face on grounds of nationality and the absence of proper asylum procedures, leading to the reported *refoulement* of asylum-seekers without appropriate consideration of their individual cases. It also notes with concern the poor and overcrowded conditions of detention for asylum-seekers. The State party should adopt the draft laws ‘On Refugees, Persons Eligible for Complementary and Temporary Protection’ and ‘On Introduction of Amendments to the Law of Ukraine on the Legal Status of Foreign and Stateless Persons.’ The State party should also adopt asylum procedures in accordance with international standards as well as improve detention conditions, including by the use of alternative measures” (CAT 2007 para.20).

In 2006, the [Committee on the Elimination of Racial Discrimination](#) (CERD) expressed concern “that the Refugee Law does not contain

standardized refugee determination criteria, a definition of temporary humanitarian protection, or safeguards concerning the withholding of personal data from the authorities of the country of origin to which a rejected asylum-seeker might be deported” (CERD 2006 para.13). Furthermore, Ukrainian law does not provide subsidiary or humanitarian protection to asylum seekers whose claims are rejected (Pylynskyi 2008).

Minors. The Law on Refugees states that when the border is crossed by “a child separated from his/her family, who states his/her intention of seeking asylum officers of State Border Service of Ukraine must immediately notify the migration service agency as well as the child’s guardian or foster care agency.” The migration service agency together with the agency for guardianship and tutorship should then ensure that the child is placed in temporary accommodations at a suitable institution or with a family (LR Art. 9).

Concerns have been raised as to the appropriateness of detaining children. Children were occasionally held at the Pavshino accommodation centre (CPT 2009a), which was closed in 2008. This is particularly the case for unaccompanied minors, although the alternative is to house them in an asylum for orphans and street kids in Kyiv. This has been criticized as being “completely inappropriate for their needs” (Düvell 2007).

Access to detainees. The Human Rights Ombudsperson of the Ukraine is entitled by law to visit places of detention and receive complaints (see the Law of Ukraine, “On the Human Rights Ombudsperson of Ukraine,” Arts. 13 and 21).

Ukraine is party to both the [Optional Protocol to the Convention against Torture](#) (OPCAT) and the European Convention for the Prevention of Torture. The bodies created by these treaties have access to all places of detention within their territory. Additionally, OPCAT requires states parties to establish their own national visiting bodies for the prevention of torture and ill-treatment.

Detention Infrastructure

Ukraine employs a number of different facilities to hold migrants in administrative detention, including “specially-equipped premises” and “temporary holding facilities”—which are generally located near borders and used for short-term detention—and “migrant accommodation centres.” In determining the total number of dedicated migrant detention facilities in the Ukraine (16), the Global Detention Project includes only the two migrant accommodation centres and the temporary holding facilities, as well as one “dormitory” used to hold women and children. These facilities have a combined estimated total capacity of about 700. The GDP does not include in these figures specially equipped premises (SPs) because they are generally used to hold detainees for less than three days.

According to a source at the Delegation of the European Commission to Ukraine, the Ministry of the Interior (MOI) currently operates two migrant accommodation centres (officially called “centres for temporary accommodation of foreigners and stateless persons who illegally reside in the territory of Ukraine”), which are used for long-term detention of up to six months and have a total capacity of 420 (Soos 2009a; Soos 2009b).

In addition, the State Border Guard Service (SBGS) operates (as of October 2009) 86 shorter-term holding facilities with a total capacity of 573. These include 13 temporary holding facilities (THFs)—which are used to hold detainees for up to 10 days and can hold in total an estimated 240 persons—and 73 SPs for detention of up to three days, which have a total combined capacity of about 300. There is also an SP at the Kyiv-Boryspil airport that can hold eight detainees, as well as one “dormitory”—which is coded a dedicated migrant detention facility by the Global Detention Project—for women and children in Mukachevo with 35 places (Soos 2009a; Soos 2009b). The Mukachevo facility has been variously termed a “dormitory,” a “hostel” and a “centre” (Soos 2009a; Soos 2009b; HRW 2005). In a 2005 report, Human Rights Watch (HRW) included Mukachevo on its list of detention facilities in Ukraine (HRW 2005).

In December 2008, the Pavshino migrant accommodation centre, which had been the subject of repeated criticism, was closed. Among the complaints levelled at the facility were repeated instances of physical and verbal abuse, severe overcrowding, insufficient heating, and insufficient medical assistance (WGAD 2008; CPT 2009a; HRW 2005).

The Ministry of the Interior replaced Pavshino with two new accommodation centres. The centres are located in Zhuravichi, in northwest Ukraine close to the border with Poland and Belarus; and Rozsudev, on Ukraine’s northern border with Belarus. Detainees at Pavshino were transferred to these new centres, and by the end of 2008 both centres had reached full capacity (239 in Rozsudev, 181 in Zhuravichi). In its 2008 budget, the Ukrainian government granted 2.5 million Euros to the MOI to increase the capacity of each facility to up to 500, although it gave no time frame for the project’s completion (GDISC 2009). The MOI also had plans as of 2009 to create additional accommodation centres by converting three former military facilities (GDISC 2009).

Some SPs are located within THFs at border guard detachments, where they can hold between four and twelve people, although most are typically empty (Soos 2009b; Dasney 2009a). THFs can hold anywhere from 10 to 35 detainees, and are also used to hold criminal detainees (Soos 2009b; Dasney 2009b). An exception to this are the SP and THF in Chop (on the Ukraine-Hungary-Slovakia border), which have a maximum combined capacity of over 100. This number is usually reached and occasionally exceeded (Dasney 2009a). In 2008, the border guard opened five newly renovated THFs, all located close to the borders with Poland and Romania (GDISC 2009; CEC 2009). While the dormitory in Mukachevo is officially the only facility exclusively for families, women, and children, the THF in Chop also has a separate section for women and children (CPT 2009a).

Special premises are also located at checkpoints along Ukraine's borders. These are small facilities where persons can be held for a maximum of three days (GDISC 2009b). In general, they can hold less than five detainees at a time, although the facility in the town of Pisch, close to the Belarussian and Polish border, can hold up to 16. Checkpoint SPs are found in several regions, including: Chernihiv, Chernivtsi, Donetsk, Kharkiv, Kyiv, Luhansk, Lviv, Mykolayiv, Odesa, Sumy, Vinnitsya, Volyn, Zaporizhia, Zhytomyr, and the Autonomous Republic of Crimea (Soos 2009b).

Conditions at Ukraine's detention facilities have routinely been characterized as poor. The border guard facilities in particular have been criticized for being cramped and overcrowded, with inadequate toilets, little access to natural light, and a lack of outdoor exercise facilities. Recent visits by independent organizations have recorded complaints from detainees of abuse from guards, insufficient attention to health, and a general lack of communication due to language barriers, particularly regarding their legal status (CPT 2009a, HRW 2005). During a 2005 visit, HRW highlighted that border guards and police were not given training on the correct procedure with female detainees, and there were no gender guidelines for either service (HRW 2005).

Several international organisations and local NGOs have been involved in providing services to detainees, as well as bolstering the countries detention infrastructure, including the European Union and the International Organisation for Migration (IOM) (Flynn 2005; Dasney 2009a). In addition, the IOM has worked with the UN High Commissioner for Refugees (UNHCR) in efforts to improve standards and conditions at detention facilities. An IOM representative in the Ukraine told the Global Detention Project that the organisation has worked with local NGOs to gain access to detention facilities and provide legal and medical assistance, interpretation services, and emergency rations of food and medication (Dasney 2009a).

Facts & Figures

The number of irregular migrants apprehended by Ukrainian authorities in both 2006 and 2007 is estimated to be 25,000-26,000. Around one third were caught trying to enter neighbouring EU countries (Düvell 2008a; Pylynskyi 2008). The border guard estimates that some 3,000 migrants were detained in 2007 on the country's western border, and an additional 929 were detained in the first quarter of 2008 (Reuters 2008; UA Reporter 2008). These numbers, however, are generally regarded as low estimates. The IOM puts the number of irregular migrants at around 7,600 in both 2006 and 2007 (Reuters 2008).

During the first quarter of 2009, 92 irregular migrants were detained on the eastern border with Russia, while 1,462 were denied entry (GDISC 2009c). According to Ukrainian authorities, in 2007 more than 50 percent of irregular migrants were citizens of Commonwealth of Independent States (CIS) countries, with 33 percent coming from Moldova. Fourteen percent came from Pakistan and 7.5 percent from India (Pylynskyi 2008). In 2003, UNHCR reported that as of 2002, the main source of "illegal migrants" in the Ukraine, as reported by Ukraine's State Committee for Border Protection, was China. Nearly 700 Chinese migrants were detained that year (UNHCR 2003).

Experts estimate that some 80 percent of undocumented migrants who successfully cross the Ukrainian border into Slovakia are apprehended by Slovak authorities (UNHCR 2006). In addition, migrants who seek asylum in the EU are generally returned to Ukraine (Düvell 2008a).

According to one estimate, there were some 1.6 million irregular migrants residing in Ukraine as of 2008, representing the largest undocumented population in the European region (Pylynskyi 2008). On average, 5,000 migrants are deported from Ukraine each year (Düvell 2008a). In the first half of 2008, of the 7,955 migrants expelled from the country, 1,206 were deported involuntarily (DoS 2008).

The number of asylum applications to Ukraine has steadily increased since 2004 (1,360). There were 2,270 submitted in 2007 and 2,240 in 2008 (UNHCR 2009). In 2007, the majority of asylum applicants were from Pakistan (535), India (453), Afghanistan (233), and Iraq

(206) (Söderköping Process 2009). Almost half of all asylum applications are filed in Zakarpattia Oblast, a province in southwest Ukraine that borders Poland, Slovakia, Hungary, and Romania (Düvell 2008a). Since new migrant accommodation centres opened in Volyn and Chernigov, the number of asylum seekers in these regions has increased (GDISC 2009).

Between 2003 and 2007, refugee status was given to 294 persons, 158 of whom were from Afghanistan. During this same period, the recognition rate for asylum seekers and refugees was highest among stateless persons (47 percent), Belarussians (23 percent), Ghanaians (18 percent), and Afghans (14 percent) (Söderköping Process 2009). The overall recognition rate, however, has decreased significantly in recent years, and now varies from 0.4 to 6 percent (Düvell 2008a). In 2007, refugee status was awarded to only 33 persons, slightly more than 1 percent of all applicants. As of January 1, 2007, there were 2,275 refugees registered in Ukraine (Pylynskyi 2008).

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Ukraine Detention Profile

List of Detention Sites

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Name	Location	Status (Year)	Facility Type	Security	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Bilhorod-Dnistrovsk Temporary Holding Facility	In use (2009)	Bilhorod-Dnistrovsk, Odessa oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	10 (2009)		
Chernihiv Temporary Holding Facility	In use (2009)	Chernihiv, Chernihiv oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	21 (2009)		
Chernivtsi Temporary Holding Facility	In use (2009)	Chernivtsi, Chernivtsi oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	13 (2009)		
Chop Temporary Holding Facility	In use (2009)	Chop, Zakarpattia oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	44 (2009)	35 (Dec 2007)	Adult males and females. Gender segregation (2009)
Donetsk Temporary Holding Facility	In use (2009)	Mariupol, Donetsk oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	10 (2009)		
Izmail Temporary Holding Facility	In use (2009)	Izmail, Odessa oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	14 (2009)		
Kotovsk Temporary Holding Facility	In use (2009)	Kotovsk, Odessa oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	13 (2009)		
Lutsk Temporary Holding Facility	In use (2009)	Lutsk, Volyn oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	35 (2009)		
Lviv Temporary Holding Facility	In use (2009)	Lviv, Lviv oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	32 (2009)		
Malniv Temporary Holding Facility	In use (2009)	Malniv, Lviv oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	Est. 10-15 (2009)		
Mostyska Temporary Holding Facility	In use (2009)	Mostyska, Lviv oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	14 (2009)		
Mukachevo Dormitory for Women and Children	In use (2009)	Mukachevo, Zakarpattia oblast	Migrant Detention Centre	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	35 (2009)		Adult females and minors (2009)
Pavshino Centre for Men	Closed (Dec 2008)	Pavshino, Zakarpattia oblast	Migrant Detention Centre	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	450 (2007)	372 (5 Dec 2007)	Adult males only (2009)

Name	Location	Status (Year)	Facility Type	Security	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Rozsudiv Migrant Accommodation Centre	In use (2009)	Rozsudiv, Chernigov oblast	Migrant Detention Centre	Secure	Ministry of the Interior	Ministry of the Interior	239 (2009)	239 (Dec 2008)	
Shatsk Temporary Holding Facility	In use (2009)	Shatsk, Volyn oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	Est. 10-15 (2009)		
Sumy Temporary Holding Facility	In use (2009)	Hrutsenkovo, Sumy oblast	Immigration Office	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	30 (2009)		
Zhuravichi Migrant Accommodation Centre	In use (2009)	Zhuravychi, Volyn oblast	Migrant Detention Centre	Secure	Ministry of the Interior	Ministry of the Interior	181 (2009)	181 (Dec 2008)	

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(This is only a partial list. More detailed information is available upon request.)

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Government Agencies

Ministry of Foreign Affairs of Ukraine

<http://www.mfa.gov.ua>

Ministry of the Interior

<http://mvs.gov.ua/mvs/control>

State Committee of Ukraine on Nationalities and Migration

<http://www.scnm.gov.ua>

International Organizations

Delegation of the European Commission to Ukraine

<http://www.delukr.ec.europa.eu>

International Labour Organisation (ILO) – Central and Eastern Europe

<http://www.ilo.org/public/english/region/eurpro/budapest/>

International Organisation for Migration (IOM) Mission in Ukraine

<http://www.iom.org.ua/?lang=en>

UN High Commissioner for Refugees (UNHCR) – Ukraine

<http://www.unhcr.org.ua>

NGOs and Research Institutions

Amnesty International - Ukraine

<http://www.amnesty.org/en/region/ukraine>

Bordermonitoring Ukraine

<http://bordermonitoring-ukraine.eu/>

Caritas Ukraine

<http://caritas-ua.org/index.php?&lang=english>

Chernihiv Public Committee of Human Rights Protection

<http://protection.org.ua/english>

Danish Refugee Council

<http://www.drc.dk/relief-work/where-we-work/ukraine/>

International Charitable Foundation for the Protection of Health and Environment "Region Karpat" (NEEKA)

<http://www.neeka.org/index11.php>

JRS - Jesuit Refugee Service Ukraine

<http://www.jrseurope.org/countries/ukraine.htm>

Kharkiv Human Rights Protection Group

<http://www.khpg.org/en/>

Media

Brama

<http://www.brama.com/news/>

ForUm

<http://en.for-ua.com/>

Kyiv Post

<http://www.kyivpost.com/>

UA Reporter

<http://www.ua-reporter.com/eng>

Ukrainian Independent Information Agency (UNIAN)

<http://www.unian.net/eng/>

Ukrayinska Pravda (Ukrainian)

<http://www.pravda.com.ua/>

UKRINFORM

<http://www.ukrinform.ua/eng/>

Zerkalo Nedeli (Ukrainian)

<http://www.zn.ua/>

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