

Ukraine Detention Profile*

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Introduction

Ukraine has been the focus of a concerted, multi-million-Euro effort by the European Union to strengthen external border controls and stem the flow of irregular migrants. Some observers have argued that this effort has come at the expense of fundamental rights, particularly with respect to asylum seekers. Human Rights Watch stated in a [2010 report](#): “The EU’s monetary support has largely focused on securing Ukraine’s borders and constructing migrant detention facilities. The EU has not done enough to ensure that migrants in Ukraine are treated humanely, that they are not arbitrarily detained, and that asylum seekers and members of vulnerable groups are protected” (HRW 2010).

Although recent years have seen a steady decrease in the numbers of arriving and transiting migrants in Ukraine, EU policymakers appear to remain fixated on the country as a stepping stone into Europe. A case in point is the enormous sums of money Europe has spent to boost its detention capacity. In 2011, 30 million Euros were allocated to build nine new detention centres in Ukraine. According to the EU delegation to Ukraine, this project will “enable” the application of the EU-Ukraine readmission by providing detention space for “readmitted” migrants sent back to Ukraine from EU countries (Europa TTED 2010; DECU 2011b; DECU 2011a).

Ukraine’s Accounting Chamber, a parliamentary body that oversees the use of the national budget, has contended that the country’s existing migrant detention capacity exceeds its needs, pointing out that there are two guards for every detainee (HRIU 2011b).

In 2011, Ukraine adopted new immigration legislation. Some observers have pointed to detention-related gaps in the new law, including its failure to prohibit the common practice of re-arresting migrants upon release and detaining them again for the maximum period allowed (ECRE 2012; HRW 2012).

Detention monitors report that accommodation standards in immigration detention have improved since 2009. However, access to essential services—like legal aid, interpretation, and medical care—are uneven and allegations of ill-treatment and extortion remain rampant (BMPU/PA 2011; EP 2012).

Additionally, according to Jesuit Refugee Service (JRS), current EU funding only provides for construction of detention centres without support for their on-going operation, and as a result the country will remain heavily dependent on external funding to provide essential services to detainees (JRS 2011). An official at the Zhuravlchi detention centre told the JRS in 2011 that that facility could “hold up to 150 people, but because we can only afford to feed 40 people, we can never reach full capacity” (JRS 2011).

Detention Policy

Principle norms. Norms applicable to the administrative detention of non-citizens are provided in numerous laws, including, *inter alia*: the 1994 [Law on the Legal Status of Foreigners and Stateless Persons](#), which was amended in 2011; the 2011 [Law of Ukraine on Refugees and Persons in need of Complementary or Temporary Protection in Ukraine](#); the 1984 [Code of Ukraine on Administrative Offences](#), amended in 2008; the 2011 [Law on Combating Human Trafficking](#); the new [Criminal Code of Procedure](#), adopted in 2012; [new regulations](#) regarding asylum and complementary protection, adopted in 2012; and a new [law on amendments](#) to the Ukraine’s law on foreigners and stateless persons, which came into force in November 2012.

In 2011, Ukraine adopted a new refugee law, the *Law of Ukraine on Refugees and Persons in need of Complementary or Temporary Protection* (LRCP). The law bans deportation or compulsory return of persons granted complementary or temporary protection in Ukraine (LRCP, Art.3). By October 2012, there had already been several cases in which persons

granted complementary protection were released from detention (Galkin 2012). With the adoption of LRCP, the previous *Law of Ukraine on Refugees* became invalid (LRCP, Section VII-2).

The *Law on the Legal Status of Foreigners and Stateless Persons* (LSF) was amended twice in 2011. Commenting on the amendments, the UN High Commissioner for Human Rights (UNHCR) stated that they “appear to have been drafted hastily in an effort to comply” with the EU Action Plan on Visa Liberalization with Ukraine, adopted in November 2010 (UNHCR 2012c).

Under the amended LSF, the length of detention for unauthorized stay of foreigners and stateless persons was increased from 6 to 12 months (LSF, Art. 30-4). As a consequence, asylum seekers face increasingly long periods in detention, prompting hunger strikes and other protests (UNHCR 2012c). A hunger strike by some 60 Somali asylum-seekers in early 2012 at the Zhuravichi Migrant Accommodation Centre spurred interventions by UNHCR and international NGOs and prompted questions from senior EU officials at the European Parliament (EP 2012).

Observers have also highlighted the amended LSF’s failure to prohibit authorities from re-arresting migrants upon release from detention, a common practice—both in Ukraine and in other European countries—that has been widely criticized (HRW 2010). The European Court of Human Rights has found that this practice constitutes a violation of the European Convention on Human Rights’ right to liberty and security (see *John v. Greece* 2007). To limit the re-arrest of released detainees, advocates have argued that Ukraine should use the newly adopted LRCP to extend complementary protection to people—particularly Somalis—who are not recognized as refugees but cannot be returned to their countries because of on-going conflicts (AI 2012; HRW 2012).

Ukraine also adopted in 2012 a law on amendments to some legislative acts in connection to the new LSF. According to UNHCR, the law has numerous shortcomings, including its failure to introduce periodic judicial review for detained asylum seekers whose applications are under consideration (UNHCR 2012a). UNHCR also noted that the new amendments to the law empower the Border Guards “to authorize the detention of foreigners and stateless ... if the individuals were detained in the border regions while attempting or making an illegal border crossing.” Previously, courts had to authorize such detentions, reported UNHCR, adding: “According to the Ukrainian constitution, detention should be authorized by a court (Art. 29), and European human rights law reinforces this norm, which is a fundamental guarantee for individual liberty” (UNHCR 2012a).

The new Code on Criminal Procedure (CCP) entered into force on 20 November 2012. According to UNHCR “It is expected that this improved legal framework will help to resolve many challenges that have arisen around the issue of extradition *and UNHCR’s access to persons in detention.*” (UNHCR 2012b)

Grounds for detention. Foreign nationals and stateless persons 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; being readmitted into the country under readmission agreements; and posing a threat to security and public order (LSF, Arts. 29, 30).

Penalties. The *Administrative Code* (CAO) provides specific punishments for various immigration-related offences. Foreigners and stateless persons considered to be in violation of rules for staying in Ukraine and transiting its territory can be fined (CAO, Art. 203). Illegal entry or border crossing is punishable by a fine and administrative arrest for up to 15 days (CAO, Art. 204-1). Asylum seekers, however, are specifically exempted from sanctions (CAO, Art. 203; LRCP, Art. 5-4)

Procedural guarantees. Persons accused of administrative offences have a number of rights, including: a review of evidence against them; the right to legal counsel; the right of appeal; and the right to interpretation services (CAO, Arts. 267, 268, 270, 271, 274, 275). In addition, administrative detainees have the right to inform a relative or third party of their detention and relevant consular authorities must be informed within 12 hours of the administrative detention of their nationals, except if they seek asylum ([Order No. 494 of the Border Guard Service of 30 June 2004](#), section 3.4).

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 2011a, para. 57; CPT 2009a, paras. 77-81; HRW 2005, p. 40). However, the CPT has repeatedly recommended that the 12-hour period of time after which consulates or relevant diplomatic missions are to be contacted following the detention of a foreign national should be extended as the period is not long enough for many persons to apply for asylum (CPT 2011a, para. 58).

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). A new State Migration Service (SMS) was created in April 2011 under the authority of the Minister of Internal Affairs (Decree No. 405/2011). It is responsible for migration, management, including refugee and asylum issues, and combatting irregular migration. This is the ninth administrative reform in ten years and the SMS internal structure continued to undergo revisions in 2012 (UNHCR 2012b, 2012c).

Among the governmental bodies involved in carrying out immigration control measures are the State Border Guard Service (SBGS), which is 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). The coordination of migration control efforts falls mainly to the MOI, working in cooperation with the SBGS and the Security Service of Ukraine (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.

According to UNHCR migrant accommodation centres (MACs), for long-term detention, are operated by the State Migration Service, while temporary holding facilities (THFs)—where detention is legally allowed for up to 72 hours only—and special premises (maximum 3-hour detention) are run by the State Border Guard Service. However, in contrast to current regulations, detainees are at times kept in special premises for up to 72 hours (Blazhievsky 2012).

While in administrative immigration detention, non-citizens at Special Premises and Temporary Holding Facilities, which are normally located within the sites of Border Guard Detachments (bigger units) or Divisions (smaller units), are under custody of the border guards. From there, persons are either released or transferred to Migrant Accommodation Centres and kept their under custody of the State Migration Service (Blazhievsky 2012).

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 (CAO, Article 263). This means that under law, the limit on detention in these facilities is 10 days.

Despite these limitations, there have numerous reports of prolonged detention 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). There have been cases of detentions of up to 24 days at the Boryspil Airport SP and of up to two months at the Chernigiv THF (CPT 2011a). In the 2011 report on its visit to Ukraine, the CPT recommended that steps be taken to ensure that the legal provisions governing detention by the State Border Service are fully respected in practice (CPT 2011a).

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 2011 amendments to the *Law on the Legal Status of Foreigners and Stateless Persons*, the maximum limit of detention is twelve months (LSF, Art.30). Once this time has passed, detainees must be released.

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, HRW 2010). The new law extending detention time limits to 12 months does not prohibit this practice and many asylum-seekers and irregular migrants have been re-arrested who can potentially be detained for much longer than a year (ECRE 2012).

Readmission agreements. The EU-Ukraine readmission agreement entered into force in 2008 for the return of Ukrainian nationals and in January 2010 for the return of third-country nationals (EU Treaties Office database). Although the readmission agreement is intended to apply to “illegal aliens,” asylum seekers were reportedly among those returned to Ukraine during 2011, especially from Slovakia, Hungary, and Poland (AI 2011; UNHCR 2011b). In Ukraine, readmitted persons are charged with illegal border crossing (UNCHR 2012d) (LSF, Art.29). Readmitted asylum seekers thus often face lengthy periods in detention upon their arrival in Ukraine (UNCHR 2011b). According to Ukrainian government statistics, 867 persons were readmitted in 2010, of whom 469 (or 55 percent)

were nationals of Ukraine, 267 nationals of the Commonwealth of Independent States (CIS) countries, and 131 third-country nationals (UNCHR 2011a).

Standard EU readmission agreements with Eastern European countries include readmission of third-country nationals and stipulate that each partner country commits “to readmit any third-country nationals or stateless person residing illegally in the EU if the person concerned: holds a valid visa or residence permit issued by Georgia, Moldova or Ukraine; and has illegally and directly entered the territory of the Member State from Georgia, Moldova or Ukraine.” (Europa). Ukraine has agreed to readmit migrants who remained illegally on EU territory “even if they had left Ukraine legally” (Jaroszewicz 2011). Despite the low number of readmissions of third-country nationals, in 2011 the EU launched a 30-million-Euro new construction programme to further expand the detention infrastructure in relation to readmission (see below).

Refugees and asylum. Ukrainian law does not prohibit the detention of asylum seekers. In practice, asylum seekers are routinely detained.

The *Law on Refugees* (LR), adopted in 1993, has been amended a number of times, notably in 2003—a year after Ukraine acceded to the Refugee Convention—and 2005. While the 1993 law included some 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). Under the 2005 amended Refugee Law, persons intending to apply for refugee status had to do so within 15 days of entering the country (LR, Article 9).

Under the new *Law of Ukraine on Refugees and Persons in need of Complementary or Temporary Protection in Ukraine* (LRCP) the time frame to apply for refugee status or complementary protection was reduced to five working days (Art. 5-1). Asylum applicants who receive a negative decision have only five working days to appeal (Art.8-9). UNHCR has described this as an unrealistically short period of time (UNHCR, 2012d).

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).

UNHCR has expressed concern that the detention of asylum seekers is expanding and that the paralyzed asylum system and lack of reception conditions in Ukraine are forcing an increasing number of asylum seekers to attempt to cross Ukraine’s western border, which could lead to twelve months in detention and deportation. UNHCR has deemed this to be contrary to international law, stating: “If the asylum-seeker’s case is under consideration, s/he cannot be deported according to the provisions of international and Ukrainian law” (UNHCR 2012c).

Additionally, according to UNHCR, if an individual cannot be deported, there is no rationale to detain him/her for the purposes of deportation. Despite administrative and judicial appeals in this regard, these detention practices continue. As of 2012, 77 percent of foreigners in administrative detention are asylum seekers (UNHCR 2012c).

Many asylum seekers fall in a vicious circle of re-detention. Although Ukrainian law provides that migrants may only be detained for a maximum of 12 months, upon release many persons are often rearrested (ECRE 2012).

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; UNHCR 2012c).

In 2011, the [Committee on the Elimination of Racial Discrimination](#) (CERD) recommended that Ukraine ensure “that all asylum seekers remain documented throughout the asylum procedure, including the appeals stage, so that they do not face the risk of detention or *refoulement* while pursuing their asylum claims, and that adequate resources are available for the provision of interpretation to them, particularly in the courts and in places of detention so that they can enjoy meaningful access to justice” (CERD 2011 para.20).

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.” It recommended that Ukraine adopt the draft laws temporary protection’ and ‘the Legal Status of Foreign and Stateless Persons” which were finally adopted in 2011. It also recommended the adoption of asylum procedures in accordance with international standards as well as the improvement of detention conditions, including by the use of alternative

measures” (CAT 2007 para.20).

Minors. Accompanied and unaccompanied minors who are undocumented, including those seeking asylum, are often detained in Ukraine despite the fact that Ukrainian law does not provide explicitly for their administrative detention beyond 24 hours.

Unaccompanied minors apprehended by the border guard trying to enter or transit the country are supposed to be promptly placed in “appropriate” accommodation. The LRCP states that “If a child separated from the family is crossing or crossed the state border of Ukraine, and applies for recognition as a refugee or a person in need of complementary protection ... officers of the State Border Guard Service of Ukraine shall immediately notify the migration service authority as well as the custody and guardianship authority of such fact. The migration service body together with the tutorship and guardianship authority must take measures to provide for temporary accommodation of such child in appropriate care institution or family” (Art.5-3).

Nevertheless, authorities appear to routinely make use of Ukraine’s detention centres (“migrant accommodation centres,” or MACs) to hold these minors, and rights actors have urged the country to improve efforts to notify appropriate authorities when unaccompanied children are apprehended (IOM 2012).

In the first half of 2012, 20 unaccompanied minor (UAM) asylum seekers were detained at the Chernihiv MAC and in Volyn MAC (DRC 2012b). According to DRC/UNHCR there were 20 UAM asylum-seekers detained in both MACs as of 19 June 2012 and 5 as of 16 October 2012 out of a total of 134 and 120 UAMs asylum-seekers (primarily Afghans and Somalis) present on Ukrainian territory on those dates (DRC 2012a).

UAMs arrested by SBGS as “illegal migrants” have been sent to Mukachevo detention centre, which authorities describe as a “dormitory for women and children.” According to some reports, detainees at the facility have dubbed it the “Baby Lager”—an apparent reference to World War II concentration camps— because of the abuse some have received there (Williamson 2011; HRW 2010).

Before it was closed in 2008, children were also occasionally held at the Pavshino accommodation centre (CPT 2009a).

In 2011 the Committee on the Rights of the Child recommended that Ukraine take measures to ensure “that unaccompanied asylum-seeking children are promptly appointed a legal representative in order to effectively access the asylum procedure, as well as assistance and protection, including access to free interpretation.” The committee also recommended that “no asylum-seeking or refugee child [be] deprived of his or her liberty” (CRC 2011).

Victims of trafficking. According to Article 1.45 of the 2011 Law on Combating Human Trafficking (LCT) “persons who have suffered from human trafficking” should not be detained.

According to the U.S. Department of State, during 2011, no trafficking victims were punished for unlawful acts committed as a direct result of being trafficked in 2011. However, three victims were detained for six months because they were not initially recognized as trafficking victims, and another victim was detained while awaiting deportation because there was not yet a temporary legal status for trafficking victims (LCT was adopted in September 2011) (DoS 2012).

Access to detainees. Access to immigration detainees has been a recurring issue in Ukraine. Although some international NGOs have in the past achieved access to detention sites on an ad hoc basis, migrants rights advocates generally face challenges to gaining access and UNHCR has been denied access to asylum seekers in detention centres (HRW 2010; JRS 2011; BMPU/PA 2011).

On the other hand, Ukraine is obliged to grant access to various national and international monitoring bodies. The Ukrainian Parliament Commissioner for Human Rights (human rights ombudsperson) is entitled by law to visit places of detention and receive complaints (see the [Law of Ukraine on the Ukrainian Parliament Commissioner for Human Rights](#) 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.

OPCAT requires states parties to establish their own national preventive mechanisms (NPMs) to conduct visits to all places of detention. Ukraine ratified OPCAT in 2006 and the Parliamentary Commissioner for Human Rights was designated as NPM in 2012 (APT 2012). The Parliamentary Commissioner reportedly plans to publish an annual report on NPM operations (UPCHR 2012).

The UN Subcommittee on Prevention of Torture visited Ukraine in 2011, although its report on the visit is not public. According to the Association for the Prevention of Torture (APT), the Commissioner conducted 106 visits to places of detention between July and October 2012, including 3 to places of detention for irregular migrants. After each visit the Parliament Commissioner on Human Rights reports to the relevant authorities (UPCHR 2012).

Non-custodial measures. According to UNHCR, “there is no practice of alternatives to detention, in particular for asylum seekers and persons with special needs including vulnerable families, women with children in the sub-region. The only possibility for the most vulnerable asylum seekers to avoid detention is the accommodation in government administered temporary accommodation centres. However, this is implemented mostly for those asylum seekers whose claims were accepted into the national asylum procedure for the substantive review and it has therefore limited scope as almost half of the asylum claims are rejected on admissibility grounds” (UNHCR 2011a).

Detention Infrastructure

Ukraine employs a number of different facilities to hold migrants in administrative detention, including “specially-equipped premises” (SPs), “temporary holding facilities” (THFs) that are generally located near borders and used for short-term detention, and “migrant accommodation centres” (MACs).

According to **Global Detention Project** estimates, as of late 2012, there were a total of 13 dedicated migrant detention facilities in operation in the country. This figure includes two migrant accommodation centres, ten temporary holding facilities (THF), as well as one “dormitory” used to hold women and children. It does not include the Lutsk THF, which was under repair as of November 2012 (Calhoun 2012). 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.

The THFs are officially meant to hold people for no more than 72 hours (Code of Ukraine on Administrative Offenses, Art. 263). The Global Detention Project generally only classifies as “dedicated migrant detention centres” facilities that are used to confine people for periods exceeding 2-3 days. However, the GDP classifies the THF as dedicated facilities because the State Border Guard Service (SBGS) is allowed to hold migrants in THFs for up to ten days with the permission of the prosecutor. Staffing (including guards) and running costs for THFs are more substantial than those of SPs, which are commonly located in areas with less intensive irregular migration. THFs tend to be situated closer to migration “hot spots.”

Migrant Accommodation Centres. The State Migration Service (SMS), established in 2011, is responsible for management of the two MACs, which are Ukraine’s main long-term dedicated facilities. These facilities, which are officially called “centres for temporary accommodation of foreigners and stateless persons who illegally reside in the territory of Ukraine,” are located in the Chernihiv province in the village of Rozsudiiv and in the Volyn province in the village of Zuravichi (Soos 2009a; Soos 2009b; DRC 2012). Before the establishment of the SMS, the Ministry of the Interior (MOI) operated these two facilities. As of late 2012, the MAC in Chernihiv had a capacity of 208 and was half full (Blazhievsky 2012; Galkin 2012).

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).

In recent years, the Ministry of the Interior replaced Pavshino with two new detention centres. These centres are located in Zhuravichi, in northwest Ukraine close to the border with Poland and Belarus; and Rozsudiiv, 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 Rozsudiiv, 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).

Short- and medium-term facilities. As of October 2009, the border guard operated 86 shorter-term holding facilities with a total capacity of 573. These included 13 temporary holding facilities (THFs)—which had a total estimated capacity of 240—and 73 SPs. 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). At the end of 2012, the border guards operated 10 temporary holding facilities. The THF in Malniv had been closed; the THF in Donetsk had been downgraded to a special premise; and the THF in Lutsk was under repairs (Calhoun 2012).

According to official regulations, detainees may be kept in SPs for no more than 3 hours. However, according to some sources, SPs frequently detain people for up to three days (Blazhievsky 2012). Normally, SPs are managed by one officer in charge of work with aliens and administrative proceedings (Blazhievsky 2012).

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 more than 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 Belarusian 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).

“According to the State Border Guard Service, their holding facilities in 2011 were only 30-50% full. The holding centres under the MIA were 29% full in the Chernihiv region and 27% full in the Volyn region” (HRIU 2011a).

New detention centres. In 2011, the European Union (EU) allocated 30 million Euros to build 9 new detention centres for irregular migrants, which are slated to have a total capacity of 270 beds. The construction cost per bed would thus exceed 100,000 euros. This programme is part of the European Neighbourhood and Partnership Instrument (ENPI). It will finance the construction of centres of detention—“temporary holding facilities” in EU parlance—along the EU borders with Poland, Slovakia, Hungary, and Romania, each with a capacity of 10 beds. One of two larger “custody centres” with a capacity for 100 detainees will be located closer to the Russian Federation. The financing authority is the EU, represented by the European Commission. The contracting authorities are the Ministry of Internal Affairs for the two larger facilities and the Administration of the State Border Guard service of Ukraine for the 7 smaller ones (Europa TTED 2010, DECU 2011b).

According to the Border Guard Service, their detention holding facilities were only 30-50 percent full in 2011. The Accounting Chamber of Ukraine, a parliamentary body exerting control over use of the funds of the State Budget of Ukraine, also noted that the capacity of the holding facilities exceeds their need, and that there were two guards for each illegal migrant (Batchayev 2011b). The EU ENPI programme is linked to “readmission-related assistance” and will “enable the EU-Ukraine Readmission Treaty” by supporting the designing, establishing/refurbishing of detention facilities for readmitted or otherwise apprehended irregular migrants (GDISC 1, DECU 2011a, DECU 2011b).

Corruption. The continued, large-scale EU investment into border management in Ukraine not only appears to be paradoxical in relation to the occupation level of existing detention facilities, there have also been reports of corruption among staff of various agencies that deal with refugees, asylum seekers, and irregular migrants in detention (BMPU/PA 2011).

During the Anti-Corruption Committee session in October 2010, President Viktor Yanukovich declared that corruption was a threat to national security (Jaroszewicz 2011). Ukraine is ranked 152 out of 182 countries in Transparency International Corruption Perceptions Index for 2011. A number of EU institutions are aware of the problem and reported that limited progress was made in the fight against corruption (EC 2012). In 2010, a member of the European Parliament questioned top EU officials about possible effects of the widespread corruption involving migration and asylum officials in Ukraine on projects funded by the EU (EP 2012).

The CPT recommended that “Ukrainian authorities continue to deliver to Border Service and Internal Affairs staff working in establishments for foreign nationals the firm message that abusing their position in order to obtain money from detained foreign nationals will be subject to severe sanctions” (CPT 2011a).

Outsourcing services. Several international organisations and local NGOs—, including the European Union and the International Organisation for Migration (IOM)—have been involved in providing services at migrant detention centres, as well as bolstering the country's overall detention infrastructure (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).

Within the framework of the Observatory Mechanism, the IOM has organised multi-agency detention monitoring visits to places of detention to “conduct joint assessments of migrants' accommodation conditions” with representatives of embassies, international organisations, Ukrainian officials and NGOs. Positive changes compared to previous years are noted in reports from visits from October 2011 through April 2012 reportedly due to recent legislative changes. In 2009, a European Commission monitoring mission in 2009 to Chernihiv MAC described it as “one of the five best facilities of this kind in Europe” (OIM 2011a). Some THFs receive many visits - the Chop Border Detachment was visited 64 times in 2010, and 28 times in 2011 (Chernousov 2011).

Some observers have argued that the IOM's work could have a negative impact on monitoring and reporting on detention in the country. In its 2010 publication on a workshop of civil society actors from various countries in the European region, the GDP reported: "In the Ukraine ... the European Commission has provided funds to the IOM to pay nongovernmental groups to monitor detention centres. However, according to a Ukraine expert at the workshop, groups are under pressure not to criticise state practices because doing so could ultimately jeopardise their funding. Further, he said that while EU efforts to pressure the government to improve detention operations have served to 'humanise' detention in some instances, there may be an ulterior motive, which is to shift detention burdens from Europe by positioning the Ukraine as a 'safe third country' with an adequate detention capacity for holding asylum seekers deported from Europe" (Flynn and Cannon 2010).

Detention conditions and services. Although "accommodation standards" in immigration detention have reportedly improved since 2009, access to essential services such as legal aid and interpretation, or medical care is uneven and cases of ill-treatment and extortion have not disappeared exacerbated by rampant corruption (BMPU/PA 2011, EP 2012). A regulation of the Council of Ministers (#667 of June 2011) excludes asylum seekers from receiving free medical assistance and it is harder for asylum seekers to obtain legal representation (UNHCR 2012c).

Current EU funding only provides for the construction of detention centres without support for their on-going operation so that the State remains heavily dependent on external funding to provide essential services to detainees. (JRS 2011).

In 2010 more than half of the 161 migrants interviewed by Human Rights Watch who had been returned from Slovakia and Hungary said that they were beaten or subjected to other physical mistreatment upon return to Ukraine. Eight of them described how officials had tortured them, including with electric shocks in Mukachevo (HRW 2010).

Following its September 2009 visit, the CPT recommended that "Border Service staff working at the PTT [detention centre] in Chernihiv be given a firm message, at regular intervals, that any forms of ill-treatment of detained persons will not be tolerated." Following a climate of fear which reigned in this facility, the CPT added that "Tear gas canisters and rubber bullet weapons should not form part of the standard equipment of custodial staff and, given the potentially dangerous effect of this substance, tear gas should not be used in confined spaces. If necessary, the relevant regulations should be amended." (CPT 2011a). The government stood by this practice, in line with current rules, in its response to the CPT (CPT 2011b).

Facts & Figures

According to statistics from the Ministry of Internal Affairs of Ukraine (MIA), of the nearly 11,000 migrants detained in Ukraine during the period January 2011 - September 2011, 9,592 (or 88 per cent) were nationals of former Soviet republics who do not as a rule use Ukraine as a transit country (Bachayev 2011a). MIA statistics also indicate that the number of "illegal immigrants" detained during the first nine months in 2011 fell by 3.3 percent compared to the same period in 2010.

According to Major-General ?.V. Makhniuk, Chief of the Department for Analysis, Risk Assessment and Statistics in Ukraine, during 2010 nearly 20 thousand illegal migrants were detected, of whom 17,300 persons (86.8 per cent) were refused admission; some 1,700 persons (8.3 per cent) were apprehended for illegal crossing of the border; about 1,000 (4.9 per cent) were apprehended for violation of the rules for stay; and six persons were apprehended (0.03 per cent) for "other violations" (Makhniuk 2011).

According to Global Detention Project estimates, as of late 2012, there were a total of 13 dedicated migrant detention facilities in operation in the country. This figures includes two long-term migrant accommodation centres (MACs), nine temporary holding facilities used to confine period for periods of more three days, as well as one "dormitory" used to confine women and children. This number does not include the Lutsk THF, which was under repair as of November 2012 (Calhoun 2012). 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 the State Border Guard Service, Ukraine holding facilities in 2011 were only 30-50 percent full and the holding centres under the Ministry of Internal Affairs were 29 percent full in the Chernihiv region and 27 percent full in the Volyn region (Bachayev 2011b).

As of June 2012, 77 percent of foreigners in administrative detention were asylum-seekers (UNHCR 2012c). In 2010, the refugee recognition rate for Somalis in Ukraine was 1 percent while it was 91 percent in Germany (including temporary protection, not available in Ukraine in 2010) (UNHCR 2011c).

In the first half of 2012, 20 unaccompanied minors (UAMs) asylum seekers were in detention in Chernihiv MAC and in Volyn MAC

(DRC 2012).

The annual number of undocumented migrants apprehended by Ukrainian authorities in 2006 and 2007 was estimated to be 25,000-26,000. Nearly a 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).

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).

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).

According to UNHCR the total number of asylum seekers in Ukraine in 2011 was 3,622 (UNHCR 2012). The number of new asylum applications has steadily decreased each year since 2007. There were 890 new asylum applications in 2011, 1500 in 2010, 1360 in 2009, 2240 in 2008 and 2270 in 2007 (UNHCR 2012g).

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), Belarusians (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).

According to UNHCR there were 39,817 stateless persons in Ukraine in 2011 and statelessness remains an issue of concern UNHCR throughout Eastern Europe, mainly as a consequence of the disintegration of the former Soviet Union and the difficulties facing national minorities seeking to prove their citizenship. UNHCR estimates that there are some 120,000 stateless people in Eastern Europe (UNHCR 2012).

According to the United Nations there are 5 257 527 international migrants in Ukraine. (UNPD 2010). Only small portions of the Russians living in Ukraine have returned to Russia after the dissolution of the Soviet Union (Heleniak 2002). According to the 2001 Ukrainian census, 8,334,100 persons identified themselves as ethnic Russians (SSCU website).

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List of Detention Sites

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Name	Status (Year)	Location	GDP Facility Type	Detention Timeframe	Security	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Chernihiv Temporary Holding Facility	In use (2012)	Chernihiv, Chernihiv oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	21 (2010)		
Chernivtsi Temporary Holding Facility	In use (2012)	Chernivtsi, Chernivtsi oblast	Migrant Detention Centre	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	21 (2010)		
Chop Temporary Holding Facility	In use (2012)	Chop, Zakarpattia oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	50 (2011)	35 (December 2007)	Adult males, females and minors; Gender segregation; Segregation of minors (2011)
Izmail Temporary Holding Facility	In use (2012)	Izmail, Odessa oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	14 (2010)		
Kotovsk Temporary Holding Facility	In use (2012)	Kotovsk, Odessa oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	13 (2010)		
Lutsk Temporary Holding Facility	In use (2011)	Lutsk, Volyn oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	35 (2010)		
Lviv Temporary Holding Facility	In use (2012)	Lviv, Lviv oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	32 (2010)		
Mostyska Temporary Holding Facility	In use (2012)	Mostyska, Lviv oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	14 (2010)		
Mukachevo Dormitory for Women and Children	In use (2012)	Mukachevo, Zakarpattia oblast	Migrant Detention Centre	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	70 (2012)		Adult females and minors (2012)

Name	Status (Year)	Location	GDP Facility Type	Detention Timeframe	Security	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Rozsudiv Migrant Accommodation Centre	In use (2012)	Rozsudiv, Chernigov oblast	Migrant Detention Centre	Long-term	Secure	State Migration Service	State Migration Service	208 (2012)	239 (December 2008)	Adult males, females and minors (2012)
Shatsk Temporary Holding Facility	In use (2012)	Shatsk, Volyn oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	Est. 10-15 (2009)		
Sunny Temporary Holding Facility	In use (2012)	Hrutsenkovo, Sunny oblast	Immigration Office	Medium-term	Secure	State Border Guard Service of Ukraine (reports to Ukraine President's Office)	State Border Guard Service	30 (2012)		
Zhuravichi Migrant Accommodation Centre	In use (2012)	Zhuravychi, Volyn oblast	Migrant Detention Centre	Long-term	Secure	State Migration Service	State Migration Service	165 (2012)	40 (February 2011)	Adult males, females and minors; Gender segregation (2011)

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Map of "In Use" Detention Sites

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Country View

1. Chernihiv Temporary Holding Facility
2. Chernivtsi Temporary Holding Facility
3. Chop Temporary Holding Facility
4. Izmail Temporary Holding Facility
5. Kotovsk Temporary Holding Facility
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7. Lviv Temporary Holding Facility
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10. Rozsudev Migrant Accommodation Centre
11. Shatsk Temporary Holding Facility
12. Sumy Temporary Holding Facility
13. Zhuravichi Migrant Accommodation Centre

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- » International Organizations
- » NGOs and Research Institutions
- » Media

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>

State Border Guard Service of Ukraine

<http://www.pvu.gov.ua/en/>

State Migration Service of Ukraine

<http://dmsu.gov.ua/>

State Statistics Committee of Ukraine

<http://2001.ukrcensus.gov.ua/eng/>

Verkhovna Rada of Ukraine (Parliament)

<http://portal.rada.gov.ua/control/en/index>

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>

Association for the Prevention of Torture

<http://www.ap.t.ch/>

Border Monitoring Project 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/eastern-europe/ukraine/>

European Council on Refugees and Exiles
<http://www.ecre.org/>

Hebrew Immigrant Aid Society
<http://global.hias.org/en/pages/kyiv>

Human Rights Watch
<http://www.hrw.org/>

International Charitable Foundation for the Protection of Health and Environment "Region Karpat" (NEEKA)
<http://www.neeka.org/index11.php>

International Centre for Policy Studies (ICPS Ukraine)
<http://www.icps.com.ua/eng/about.html>

JRS - Jesuit Refugee Service Ukraine
<http://www.jrseurope.org/countries/ukraine.htm>

Kharkiv Human Rights Protection Group
<http://www.khpg.org/en/>

Pro Asyl
<http://www.proasyl.de/>

Transparency International
<http://www.transparency.org/>

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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