



**EASO COI QUERY
FINAL ANSWER**

Ukraine

Date of the query 19 October 2017
Completion date 9 November 2017

Question/Subject

1. Recent information on the asylum system in Ukraine (procedures and deadlines, potential weaknesses, reception and accommodation of applicants)

Context/Background

The UNHCR reports regarding the asylum system in Ukraine (Ukraine as a country of Asylum, July 2013; UNHCR Ukraine, Refugees and asylum seekers, Thematic Factsheet, June 2017) and the English translation of the relevant Ukrainian law (2011) were consulted. Additional and more recent information is needed.

Disclaimer

The response to this COI query has been elaborated according to the EASO COI Query User Guide, the Common EU Guidelines for Processing COI and the EASO COI Report Methodology. The information provided has been researched, evaluated and processed with utmost care within a limited time frame. However, this document does not pretend to be exhaustive neither conclusive as to the merit of any particular claim to international protection status. If a certain event, person or organisation is not mentioned in the response, this does not mean that the event has not taken place or that the person or organisation does not exist.

Terminology used should not be regarded as indicative of a particular legal position.

The information in the report does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.

The target audience is case workers, COI researchers, policy makers, and decision making authorities.

The answer was finalised in Malta on 9 November 2017. Any event taking place after this date is not included in this answer.

Contributing Countries

The final answer is based on information provided by COI specialists/units from (CZ, SI, EASO)

1. Asylum procedures and potential weaknesses

The June 2017 'UNHCR Thematic Factsheet' on refugees and asylum seekers in Ukraine provides a summary of the asylum procedure and current weaknesses of the system in Ukraine¹. As this information was already considered by the requestor, no specific reference to the document will be made in the present response.

According to a September 2017 report by the Council of Europe /European Commission against Racism and Intolerance (ECRI):

'Since then [the second interim follow-up recommendation], ECRI notes that the State Migration Service continues to be responsible for the application of the refugee law and the processing of asylum applications. According to the UNHCR, despite a number of improvements to the asylum procedure and practice in recent years, such as access to free legal aid at second instance, current refugee status determination procedures are still not in line with minimum standards. For instance, asylum seekers are not provided with interpretation, the time for appeals is unreasonably short, and rejected asylum seekers are not given the reason for rejection. ECRI regrets that asylum seekers do not have access to fair and effective refugee status determination procedures and urges the authorities to improve protection safeguards in the legislation and practice, in line with international and EU standards'².

According to the US Department of State (USDoS) annual report on Human Rights Practices for 2016, for Ukraine:

'The law provides for asylum or refugee status, and the government has established a legal system to protect refugees. Protection for refugees and asylum seekers was insufficient due to gaps in the law and the system of implementation. The country is a transit and destination country for asylum seekers and refugees, principally from Afghanistan, Somalia, and Syria.

Human rights groups noted that the refugee law falls short of international standards due to its restrictive definition of who is a refugee. The law permits authorities to reject many asylum applications without a thorough case assessment. In other instances government officials declined to accept initial asylum applications without a legal basis, leaving asylum seekers without documentation and vulnerable to frequent police stops, fines, detention, and exploitation. Asylum seekers in detention centers were sometimes unable to apply for refugee status within the prescribed time limits and had limited access to legal and other assistance. Asylum seekers have five days to appeal an order of detention or deportation.

A lack of access to qualified interpreters also hampered the full range of asylum procedures. International observers noted that the government did not provide resources for interpreters, which created opportunities for corruption and undermined the fairness of asylum application procedures'³.

¹ UNHCR, UNHCR Ukraine, UNHCR Thematic Factsheet, Refugees and Asylum Seekers, June 2017, (<http://unhcr.org.ua/attachments/article/1299/2017%2006%20UNHCR%20UKRAINE%20Refugees%20and%20asylum%20seekers%20factsheet%20FINAL%20EN.pdf>), accessed 6 November 2017.

² Council of Europe - European Commission against Racism and Intolerance (CoE-ECRI), ECRI Report on Ukraine (fifth monitoring cycle) [CRI(2017)38], 19 September 2017, (http://www.ecoi.net/file_upload/1226_1506415243_ukr-cbc-v-2017-038-eng.pdf), accessed 6 November 2017.

³ US Department of State (US DoS), Country Report on Human Rights Practices 2016 - Ukraine, 3 March 2017, (http://www.ecoi.net/local_link/337222/467028_en.html), accessed 06 November 2017.

The same source also notes that:

‘The government cooperated with the Office of UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. International and domestic organizations reported the system for protecting asylum seekers, stateless persons, and other persons of concern did not operate effectively’⁴.

Additionally, the US DoS reports that ‘Authorities frequently detained asylum seekers for extended periods without court approval’⁵.

According to an article by the Religious Information Service of Ukraine (RISU), citing a journalist in Ukraine:

“Border guards are the first government officials to meet asylum seekers. Under various absurd pretexts the refugees are not allowed on the territory of Ukraine. Although Ukrainian legislation provides that a border guard worker, whom the seeker has requested, must provide an opportunity to write a statement to the migration service about the desire to get asylum. Unfortunately, this provision of Ukrainian legislation is systematically violated by Ukrainian border guards,” says Anvar Derkach⁶.

Regarding the situation of Lesbian, Gay, Bisexual and Transexual (LGBT) persons seeking asylum, the Council of Europe/ECRI states:

‘With respect to asylum, the Refugee Law does not contain any provisions on asylum applications made on grounds of sexual orientation or gender identity, although it mentions, as a legitimate reason for granting refugee status, fear of persecution for persons belonging to “a certain social group”. However, this notion is not defined and there is no established practice as to whether it applies to LGBT persons. NGOs report that a number of applications for asylum on the basis of sexual orientation were granted but in other cases were denied’⁷.

According to an article published in ‘Hromadske International’, on 10 October 2017:

‘An Ukrainian court has declined to grant political asylum to a Belarusian LGBT activist Edvard Tarlecki, who organised pride parades in his home country⁸. In September 2016, the State Migration Service of Ukraine refused to recognize the activist and journalist as a refugee or a person in need of additional protection. As a result, Tarlecki filed a lawsuit against the migration service with a Kyiv district administrative court’.

On the particular procedure for unaccompanied asylum-seeking children, a PhD candidate in Law, at the University of Oxford (Faculty of Law) writes:

‘Despite the fact that Ukraine has undertaken substantial reforms of its asylum system, and has become a party to the main international legal instruments concerning unaccompanied asylum-seeking children, these challenges have persisted. They arise mainly from the gaps in

⁴ US Department of State (US DoS), Country Report on Human Rights Practices 2016 - Ukraine, 3 March 2017, (http://www.ecoi.net/local_link/337222/467028_en.html), accessed 06 November 2017.

⁵ US Department of State (US DoS), Country Report on Human Rights Practices 2016 - Ukraine, 3 March 2017, (http://www.ecoi.net/local_link/337222/467028_en.html), accessed 06 November 2017

⁶ Religious Information Service of Ukraine (RISU), Russian refugee Muslims may be unable to get asylum in Ukraine, 18 October 2017, (https://risu.org.ua/en/index/all_news/community/religion_and_society/68647/), accessed 8 November 2017.

⁷ Council of Europe - European Commission against Racism and Intolerance (CoE-ECRI), ECRI Report on Ukraine (fifth monitoring cycle) [CRI(2017)38], 19 September 2017, (http://www.ecoi.net/file_upload/1226_1506415243_ukr-cbc-v-2017-038-eng.pdf), accessed 6 November 2017.

⁸ Hromadske international, Ukraine Refuses Political Asylum To Belarusian LGBT Activist, 10 October 2017, (<https://en.hromadske.ua/posts/ukraine-refuses-political-asylum-to-belarusian-lgbt-activist>), accessed 8 November 2017.

implementation of the relevant legislation. Until recently, unaccompanied children encountered serious obstacles in applying for asylum, often because the authorities did not appoint a legal guardian. With new legislation that clarifies the legal circumstances for the procedure to appoint a legal guardian, the government has assigned legal guardians to unaccompanied asylum-seeking children, but the procedure remains unnecessarily lengthy⁹.

It should be noted that the European Union launched the project 'Support for Migration and Asylum Management in Ukraine' in 2017, to 'foster migration management in the country in accordance with best international and European practices'. With a budget of EUR 27.2 million over the next three years, the project will be implemented by the International Organization for Migration (IOM) and 'was designed to support the State Migration Service (SMS) and the State Border Guard Service (SBGS) in increasing the efficiency and the effectiveness of service provision to the citizens of Ukraine and foreigners'¹⁰.

2. Reception and accommodation for asylum applicants/refugees

Amongst all sources consulted, one article dated 2016 could be found on the situation of accommodation for asylum applicants/refugees in Ukraine.

According to an article published in 'Hromadske International' in January 2016, there were two temporary residence centres for asylum applicants/refugees in Ukraine¹¹.

3. General climate towards asylum seekers/refugees in Ukraine

While the question of the climate/context for asylum applicants/refugees in Ukraine was not part of the present query, it seems worth mentioning a few sources on this topic to provide a general context.

The Council of Europe/ECRI report dated September 2017 notes:

'On the other hand, the conflict appears to have had a negative effect on vulnerable groups in general. Reports indicate that there has been an increase in racist hate speech and discriminatory statements in public discourse, including by political figures, directed against Roma, asylum seekers and refugees, internally displaced persons (IDPs), foreign students and LGBT persons'¹².

Additionally the Council of Europe/ECRI reports that:

'Refugees have also been targeted by intolerant public discourse. ECRI was informed that in March 2016, protesters from the local population, as well as some extremist groups, rallied against the opening of a third accommodation centre in Yahotyyn, near Kyiv. This was accompanied by a media campaign, claiming, among others, that refugees spread diseases. ECRI notes that the protests effectively prevented the opening of the centre and demonstrate the significant level of xenophobia in certain areas'¹³.

⁹ University of Oxford, Faculty of Law, Seeking Asylum in Ukraine: Unaccompanied Children Forced to 'Age' Faster, 13 February 2017, (<https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2017/02/seeking-asylum>), accessed 6 November 2017.

¹⁰ International Organization for Migration (IOM), New EU-funded project will help Ukraine to foster migration and asylum management in accordance with best international practices, 2 February 2017, (<http://www.iom.org.ua/en/new-eu-funded-project-will-help-ukraine-foster-migration-and-asylum-management-accordance-best>), accessed 6 November 2017.

¹¹ Hromadske international, Refugees In Ukraine 'Are Not Treated Like Humans', 25 January 2016, ([https://en.hromadske.ua/posts/Refugees In Ukraine Are Not Treated Like Humans](https://en.hromadske.ua/posts/Refugees%20In%20Ukraine%20Are%20Not%20Treated%20Like%20Humans)), accessed 8 November 2017.

¹² Council of Europe: European Court of Human Rights, Kebe and others v. Ukraine, Application no. 12552/12, 12 January 2017, (<http://www.refworld.org/cases,ECHR,5898aa734.html>), accessed 6 November 2017.

¹³ Council of Europe: European Court of Human Rights, Kebe and others v. Ukraine, Application no. 12552/12, 12 January 2017, (<http://www.refworld.org/cases,ECHR,5898aa734.html>), accessed 6 November 2017.

Additional information on the asylum system in Ukraine can be found in the following articles, reports and websites:

Africa Report (The), Ukraine: Shifting borders for African migrants, 9 December 2014, (<http://www.theafricareport.com/North-Africa/ukraine-shifting-borders-for-african-migrants.html>), accessed 8 November 2017.

Border Monitoring Project Ukraine (BMPU), "YOU WANT TO BE FREE? YOU PAY MONEY! «Corruption in the Immigration Detention and Asylum System of Ukraine, Report, December 2011, (<http://bordermonitoring-ukraine.eu/files/2012/01/corruption.pdf>), accessed 7 November 2017.

Consortium for Applied Research on International Migration, CARIM East, Ekateryna Ivaschenko, CARIM-East Explanatory Note 13/99, Asylum Seekers and Refugees in Ukraine: Recognition, Social Protection and Integration, August 2013, (http://www.carim-east.eu/media/exno/Explanatory%20Notes_2013-99.pdf), accessed 8 November 2017.

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HIAS in Ukraine, n.d., (<https://www.hias.org/hias-ukraine>), accessed 8 November 2017.

Reporters Without Borders, Ukraine urged not to deport Uzbek journalist, 30 September 2017, (<http://www.refworld.org/docid/59d247a64.html>), accessed 6 November 2017.

UNHCR, Ukraine as a country of asylum. Observations on the situation of asylum-seekers and refugees in Ukraine, July 2013, (<http://www.refworld.org/docid/51ee97344.html>) accessed 6 November 2017.

Verkhovna Rada of Ukraine, Про біженців та осіб, які потребують додаткового або тимчасового захисту [On Refugees and Persons in Need of Subsidiary Protection or Asylum] (Law), Revision on March 3, 2016, (<http://zakon2.rada.gov.ua/laws/show/3671-17?test=4/UMfPEGznhh0IE.ZiTont64HI4z2s80msh8le6>), accessed 6 November 2017.

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Ukraine Refuses Political Asylum To Belarusian LGBT Activist, 10 October 2017, (<https://en.hromadske.ua/posts/ukraine-refuses-political-asylum-to-belarusian-lgbt-activist>), accessed 8 November 2017.

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Law of Ukraine on the Legal Status of Foreigners and Stateless Persons, n.d. (<http://www.iom.org.ua/en/legislation/migration-related-legislation/on-the-legal-status-of-foreigners-and-stateless-persons.html>), accessed 8 November 2017.

New EU-funded project will help Ukraine to foster migration and asylum management in accordance with best international practices, 2 February 2017, (<http://www.iom.org.ua/en/new-eu-funded-project-will-help-ukraine-foster-migration-and-asylum-management-accordance-best>), accessed 6 November 2017.

Religious Information Service of Ukraine (RISU), Russian refugee Muslims may be unable to get asylum in Ukraine, 18 October 2017, (https://risu.org.ua/en/index/all_news/community/religion_and_society/68647/), accessed 8 November 2017

UNHCR, UNHCR Ukraine, UNHCR Thematic Factsheet, Refugees and Asylum Seekers, June 2017, (<http://unhcr.org.ua/attachments/article/1299/2017%2006%20UNHCR%20UKRAINE%20Refugees%20and%20asylum%20seekers%20factsheet%20FINAL%20EN.pdf>), accessed 6 November 2017

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