

CASE STUDY

Ukraine



Ukraine has long been home to a vibrant native civil society sector as well as many foreign dissidents and exiled activists. Its visa-free entry system for citizens from 81 countries and its record of democratic reforms have made it an attractive destination for people fleeing political repression. However, a lack of governmental awareness about the use of transnational repression by states other than Russia, cooperation between Ukrainian security services and those of foreign states, and an inefficient asylum system have prevented many exiles from finding long-term security in Ukraine. A mobilized civil society helps to protect some targeted individuals but cannot fully substitute for strong government policies.

Best practices in Ukraine's response to transnational repression:

- **Entering the country is relatively easy** because of a visa-free regime for citizens of 81 countries, including many countries that are rated as Not Free in Freedom House's *Freedom in the World* report.
- The government has demonstrated that it is capable of **creating accountability for transnational repression** through the application of domestic criminal law.
- The country's **highly networked and mobilized civil society sector** includes many organizations that help individuals targeted by transnational repression and provides an environment in which members of vulnerable **diasporas can organize themselves**.

Arkady Babchenko, a Russian journalist living in exile in Kiev, was the subject of an assassination plot in 2018. Photo credit: Sergey Nuzhnenko/EPA-EFE via Shutterstock.

Note:

The research for this country report was completed before the Russian regime's invasion of Ukraine in February 2022, meaning its analysis reflects prewar security and migration policies.

Introduction

On October 4, 2020, agents of the Security Service of Ukraine (SBU) stopped a taxi in the city of Mykolayiv and detained the passenger.¹ The man, Alisher Haydarov, was seeking asylum in Ukraine, having fled Uzbekistan after being detained and tortured by police. When he failed to return home in Ukraine, relatives filed a missing person report but received no news from the authorities. A few days later, Haydarov appeared in a prison back in Tashkent, Uzbekistan's capital. The state of his health, the nature of the accusations he faces, and how he arrived in the country all remain unclear.

Haydarov's rendition underscores the dangers faced by foreign activists, oppositionists, and journalists living in Ukraine. In recent years, the country's authorities have enabled the forced

return of Turkish dissidents,² repeatedly denied asylum to a Kazakhstani opposition journalist,³ aided in the rendition of Uzbekistani nationals, and complied with abusive Interpol Red Notices issued by the governments of Azerbaijan and Russia.⁴

Ukraine's record of democratic reform and its visa-free entry regime for citizens from 81 countries have made it an attractive destination for many people fleeing political repression. Yet real safety is often elusive. The country's national security framework tends to overlook transnational repression committed by states other than Russia. Violence that befalls foreign activists is rarely met with a serious domestic or foreign policy response, and the country's migration agency, security service, and courts routinely deny protection for vulnerable individuals. Formal and informal cooperation between the SBU and the security services of other states, including Azerbaijan, Belarus, Kazakhstan, Russia, and Turkey, has been especially dangerous for exiled oppositionists. While Ukraine is relatively easy to enter, a slow-moving and overly bureaucratic asylum system means that few individuals are able to secure permanent residency and accompanying legal protections. Ukraine's exceptionally mobilized civil society offers a measure of defense for exiled oppositionists, but it is not an adequate substitute for comprehensive state protection.

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Security

Policing and security agencies are the first line of defense for individuals facing threats of violence. When the aggression has extraterritorial roots and political motivations, guarding against it entails specific challenges. A narrowly defined understanding of national security and established security practices that prioritize bilateral cooperation are unlikely to yield substantive protections for individuals targeted with transnational repression, and instead tend to provide opportunities for authoritarian regimes seeking to silence dissent abroad.

Limitations of a traditional approach to national security

Ukraine's national security priorities include traditional considerations such as the protection of state and military information and infrastructure. It is neither surprising nor inappropriate—given Moscow's 2014 seizure of Crimea, eight years of war in the Donbas, and the full-scale Russian invasion of the country in 2022—that the chief concern of Ukraine's contemporary national security strategy has been Russian aggression.⁵ The SBU maintains a hotline for reporting national security threats and specifically warns citizens about the dangers of recruitment by Russian operatives, informing them that they may avoid criminal liability if they voluntarily report any connection to a foreign intelligence service.⁶

In addition to vigilance against Russian aggression, Ukrainian authorities have taken measures to punish and prevent certain acts of transnational repression perpetrated by Moscow. For example, in April 2020, authorities arrested Major General Valeriy Shaytanov of the SBU on suspicion of working for Russia's Federal Security Service (FSB) to, among other things, attempt to assassinate Adam Osmayev, a leader of pro-Ukrainian Chechen volunteer fighters in the Donbas. In 2018, the SBU warned an exiled Russian journalist, Arkady Babchenko, of a plot to kill him and staged an elaborate counterintelligence operation to fake his death and arrest an alleged hitman.⁷

Despite these notable successes, however, Ukraine's approach to domestic security has shortcomings that weaken its overall ability to protect different groups of vulnerable individuals against foreign threats. While the focus on Moscow as a source of extraterritorial violence is justified, Russia is only one of at least 36 states known to engage in transnational repression. Kyiv has good working relations with some of the

most notorious perpetrators. For example, it is in a “strategic partnership” with the governments of Turkey and Azerbaijan, and it has had a bilateral extradition agreement with China since 2000.⁸ Individuals in Ukraine who are targeted by these other states are left largely without recourse. In 2021, two Chinese nationals who were seeking protection in Ukraine, including an ethnic Kazakh from China's Xinjiang Uyghur Autonomous Region, left or attempted to leave the country after receiving threats.⁹

The lack of safeguards against authoritarian states other than Russia is compounded by practices that securitize migration, tasking law enforcement and security officers with surveilling and controlling foreigners. The SBU has a significant role in policing migration, including the power to ban or expel foreigners from Ukraine. This arrangement creates an unfavorable environment for interactions between the SBU and foreign dissidents. For example, in early January 2022, SBU officers were involved in a violent altercation with Kazakh activists in Kyiv who were expressing support for antigovernment protests in Kazakhstan.¹⁰ The activists claimed that SBU officers threatened to deport them unless they stopped their political activities.

Formal and informal security service cooperation

The many socioeconomic and political reforms aimed at increasing democratic accountability in Ukraine have unfortunately not included a review of security practices that can expose individuals to transnational repression. Specifically, the Ukrainian government continues to participate in legal cooperation agreements that facilitate simplified extradition procedures and has allowed the SBU to maintain many of its Soviet-era information-sharing practices. Both of these avenues of cooperation with other states increase the risk of extraterritorial violence against foreign nationals within Ukraine's borders.

While Ukraine suspended its membership in the Commonwealth of Independent States in 2014, it continues to participate in the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Matters alongside known perpetrators of transnational repression: Azerbaijan, Belarus, Kazakhstan, Russia, Tajikistan, Turkmenistan, and Uzbekistan. Lawyers working in Ukraine note that the Minsk

It is a common practice for authorities to provisionally detain a person named in a Red Notice, with little attention paid to that state's human rights record.

Convention is often used as a “folding screen” to ease extradition and prevent examination of the validity of law enforcement requests coming from states known to employ transnational repression.¹¹ Formal legal cooperation is one of the most common tactics of transnational repression and one of the main ways in which origin states co-opt host states so as to reach dissidents across borders.

Interpol's Red Notices, another notorious tool of transnational repression, are also not scrutinized by Ukrainian authorities.¹² It is a common practice for authorities to provisionally detain or otherwise restrict the mobility of a person named in a Red Notice while they notify the requesting state, with little attention paid to that state's human rights record. This practice can have serious consequences for the detained

individuals. In late 2017, Fikret Huseynli, an Azerbaijani journalist and Dutch national who has been critical of the Azerbaijani regime, was prevented from leaving Kyiv based on a Red Notice issued by Baku. He reported being followed and intimidated by Azerbaijani-speaking men after his release from a Kyiv detention center, and he was violently attacked in his temporary residence some months later, while still in legal limbo.¹³

In addition to formal channels of bilateral cooperation, advocates working with political exiles note that the SBU engages in information cooperation with the security services of other post-Soviet states, driven in part by long-standing cultural and social ties. An interviewee who works as a human rights lawyer in Ukraine observed that “the cooperation of our SBU with the authoritarian regimes of the post-Soviet states is routine.... Whole generations of employees in these countries are friends and colleagues.”¹⁴ This sentiment has been echoed by others in the field, with one prominent legal activist arguing that “formal and informal cooperation” between security services is a more serious problem than mechanisms like Red Notices, which can be addressed openly through the courts.¹⁵ The most common product of such cooperation is the informal and illegal exchange of information about the location of targeted individuals, which can facilitate physical attacks or rendition.

Migration

Ukraine's visa-free entry regime and international reputation for democratic reform makes it an attractive destination for people seeking to escape political repression. However, while it is relatively easy to enter the country, one must overcome a burdensome and lengthy process to establish residency or apply for asylum in order to remain in Ukraine legally. The migration process lacks key protections and is riddled with inaccurate or biased information on countries of origin.

A complicated and bureaucratic asylum system

Ukraine offers two forms of protection for those seeking asylum: refugee status and complimentary protection. The formal procedure for applying for protection is relatively simple, but the process can be difficult in other ways. Asylum seekers receive no social services or housing and do not have the right to formal employment. In addition, both pathways to legal protection require that applicants surrender their passports, even though the presentation of a passport is often required to secure accommodation and other services in Ukraine. People find the prospect of their passports being confiscated “scary,”¹⁶ and the lack of a passport poses very serious problems for those hoping to stay in Ukraine or travel outside of it.

The temporary identification document that asylum seekers receive cannot be used in place of a passport, which leaves individuals especially vulnerable in emergency situations, such as the sudden onset of armed conflict. In the aftermath of the Russian regime's February 2022 invasion of Ukraine, there were numerous media reports about the difficulties that asylum seekers in Ukraine faced when trying to cross the border into neighboring countries alongside many displaced Ukrainian civilians.¹⁷ Some asylum seekers and refugees were separated from Ukrainians, detained in special lines, and subjected to extra scrutiny by border officials.

Only a small number of people receive refugee status in Ukraine; roughly 100 applications for protection per year are approved.¹⁸ The State Migration Service is not obliged to provide an explanation for refusing an application for asylum. However, some recent cases demonstrate that these refusals can be based on a misunderstanding or mischaracterization of conditions in the applicant's origin country.

For example, the asylum application of Zhanara Akhmetova, an activist and journalist from Kazakhstan, was rejected repeatedly over the course of three years. Akhmetova had fled her home country after prosecutors threatened to force her to serve a previously deferred prison sentence based on a dubious fraud conviction. In defending its decision to deny asylum, the State Migration Service argued in court that Akhmetova was trying to “avoid criminal liability” for “nonpolitical fraud charges.”¹⁹ Freedom House's *Freedom in the World* report rates Kazakhstan as Not Free and notes that “authorities have consistently marginalized or imprisoned genuine opposition figures.”²⁰ A letter to Ukrainian officials from the UN special rapporteur for torture and the UN special rapporteur on the situation of human rights defenders specifically stated that Akhmetova would face “trumped-up charges of fraud, which seem to be a direct result of her work defending human rights,” as well as the risk of “torture and/or other forms of ill-treatment.”²¹

In a similarly flawed decision, the State Migration Service argued that an employee of leading Russian opposition activist Aleksey Navalny's Anti-Corruption Foundation (FBK) did not have a legitimate claim to asylum in Ukraine because the criminal accusation he was facing in Russia was of a personal nature. He had been accused of insulting and misleading individuals as part of his work on the anticorruption documentary *Он вам не Димон* (*Don't Call Him Dimon*).²² Ukrainian authorities went so far as to claim that what happened to the leadership of FBK, specifically the fact that Navalny was imprisoned, did not negatively reflect on the rank-and-file employees of the organization.

Despite recognizing Russia as an “aggressor” state, Ukrainian migration authorities have treated asylum seekers from Russia in ways that seem to dismiss their concerns about political persecution. In 2015, Pyotr Lyubchenkov fled to Ukraine from Russia after opposing the regime's seizure of Crimea and was labeled a “terrorist.” In trying to deny his asylum request, a representative of the State Migration Service argued in court that the practices of torture and inhumane treatment were not formally enshrined in Russian law.²³ Russia is rated as Not Free in *Freedom in the World*, and multiple instances of torture at the hands of police, prison staff, and regional officials have been documented in the country.²⁴ Lawyers who work with asylum seekers and were interviewed for this report noted that employees of the State Migration Service routinely use

biased, irrelevant, or out-of-date information, whether it is publicly available or supplied by other states, in order to justify formulaic negative decisions. One activist told the International Crisis Group in 2020 that when it came to Muslims from Russia in particular, “the Ukrainian state submits fully to Russia’s investigative bodies in every possible way.”²⁵

Securitization of migration

The SBU is closely connected to the State Migration Service and can use discretion to assign staff to the Service, according to immigration lawyers and human rights activists interviewed for this report. Security checks form an integral part of the asylum review process. Consequently, individuals seeking asylum are among those put at risk by informal security cooperation between the SBU and the security services of other states.

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The SBU can recommend the denial of an asylum application based on its finding that the individual in question poses a “threat” to the national security of Ukraine. A detailed rationale is not required, and the source of information that forms the basis of the analysis is not made public. This nontransparent security assessment presents ample opportunities to deny individuals protection based on informal channels of information sharing with Russian authorities, or even based on Islamophobia. As a recent International Crisis Group report noted, “some activists also say authorities may be biased against Muslims and/or prone to dismiss fears of persecution in Russia.”²⁶ One case in point was the 2018 extrajudicial extradition of Timur Tumgoev from Ukraine to Russia based on an immigration technicality while his asylum application was still open. Tumgoev was eventually sentenced to 18 years in prison, and Ukraine’s prosecutor general admitted that the decision to return him to Russia was a “mistake.”²⁷ Tumgoev remains in prison.

Extrajudicial expulsions of individuals with legal status in Ukraine, or those in the process of acquiring it, without due process represent another troubling practice that facilitates transnational repression. While some individuals receive perfunctory legal hearings before being returned to their repressive homelands, others are simply kidnapped from the streets. For example, in 2018, Yusuf Inan was returned to Turkey based on an extradition request after an emergency hearing that took place on the same day he was arrested. Unbeknownst to him, he had already been stripped of his Ukrainian residency, making the extradition possible, and he was unable to appeal his expulsion.²⁸ In 2016, when Russian national Aminat Babayeva was in the process of applying for asylum in Ukraine, she was kidnapped from outside a State Migration Service office in Kharkiv and driven across the Russian border.²⁹ Rahmiddin Saparov was transferred to Uzbekistan on the morning of his release from a Ukrainian jail on October 19, 2020, without any formal extradition request or legal hearing, and in spite of the fact that he had already applied for asylum.³⁰

Securing residence in Ukraine for politically persecuted individuals

Since the regime in Belarus began cracking down on mass protests and dissent following the fraudulent presidential election of August 2020, thousands of Belarusians have moved to Ukraine, taking advantage of visa-free entry that allows them to stay for a newly extended period of up to four months.³¹ However, despite Ukrainian government statements condemning the regime of Belarusian leader Alyaksandr Lukashenka,³² and in contrast to neighboring states like Poland that have offered humanitarian visas, Belarusians in Ukraine face many obstacles in securing permanent legal residency.

To gain legal residency in Ukraine, Belarusians must fulfill a set of conditions that, in practice, are difficult to meet. These include finding local organizations that can vouch for them as volunteers, securing written permission from landlords authorizing their rental agreements, carrying local insurance, and abiding by tight deadlines for the submission of relevant legal documents to the State Migration Service. One activist described how Belarusians in the country felt trapped, since they could not travel on to third countries without visas, could not return to Belarus without facing repression, and could not obtain legal status in Ukraine itself due to the documentary requirements.³³

Ukrainian authorities' cooperation with Belarusian security services has also been a concern. According to a recent media report, Kyiv extradited 16 Belarusian citizens in 2021.³⁴ Even long-time residents of Ukraine are at risk, especially if they are politically active, as the case of Oleksiy Bolenkov demonstrates.

Bolenkov, who had lived in Ukraine since 2014, was threatened by the SBU with expulsion from the country in April 2021 on the grounds that he posed a "danger to national security" given his suspected connection to an anarchist group in Kyiv. He was not charged with any crimes, and SBU officials later argued that

he had threatened national security by participating in protests "as a foreign citizen ... publicly insult[ing] officers of the [enforcement] bodies and the system as a whole, effectively encroaching upon Ukraine's national interests."³⁵ A court of appeal later blocked Bolenkov's expulsion.³⁶

The lives of political exiles and dissidents like Zhanara Akhmetova and Oleksiy Bolenkov in Ukraine are extremely precarious. On the one hand, they are able to enjoy a reprieve from the harsh repression in their home countries. On the other hand, that reprieve is insecure and subject to revocation.

Recommendations for the Ukrainian government:

- **Identify and document transnational repression as a distinct problem**, including in reports on origin country conditions that are used by the State Migration Service to assess asylum applications.
- **Raise awareness of transnational repression within the government.** Develop trainings about the threat of transnational repression for members of the National Police and the Security Service of Ukraine.
- **Review established channels of security cooperation to ensure that Ukrainian institutions and agencies are not co-opted by authoritarian states** seeking to target individuals in Ukraine. The country's continued participation in the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Matters—and the Security Service of Ukraine's practices of informal cooperation with the security services of other post-Soviet states—should be carefully examined.
- **Prevent extrajudicial returns of migrants** by ensuring that all individuals facing expulsion or deportation receive due process, access to legal help, and an opportunity to appeal for judicial review.
- **Review procedures for arrest and extradition** of individuals who are detained as a result of notices issued through Interpol.
- **Ensure that migration policies do not inadvertently facilitate the targeting of vulnerable individuals.** Consider limiting the involvement of the security services in the screening of asylum seekers.

About the Project

Defending Democracy in Exile: Policy Responses to Transnational Repression examines what is being done to protect exiles and diaspora members who are being intimidated and threatened by the governments from which they fled. This report assesses the responses put forward by the governments of countries where exiles and diasporas reside, by international organizations, and by technology companies.

It represents the culmination of the second phase of our research into transnational repression. It combines an analysis of the policies of nine host countries, interviews with members of diasporas targeted by transnational repression who reside in the United States, interviews with staff at technology companies, and data on 735 physical, direct transnational repression incidents that occurred between 2014 and 2021. With this report, we aim to advance the ongoing conversation among members of the general public, civil society, media, and policymakers on countering this practice.

Over a 16-month period, we developed an original methodology for evaluating policy responses to transnational repression, trained and collaborated with 16 in-country analysts to gather data, and held two roundtables to review and refine our findings and recommendations. Collaboration with academics and civil society researchers around the world was integral to the success of this project.

Yana Gorokhovskaia and Isabel Linzer led the project and cowrote the final report and eight of the nine country reports. Research Associate Bochen Han provided research support and wrote one country report. Intern Paulina Song helped to catalog and vet incidents for the transnational repression database. The project was made possible through the generous support of the National Endowment for Democracy.

Our data collection and coding methods can be viewed at <https://freedomhouse.org/report/transnational-repression/about-acknowledgements>. Data is available on request through the research@freedomhouse.org email account. Please use the subject line “Transnational Repression Data Request.”

This report builds on the findings of *Out of Sight, Not Out of Reach: The Global Scale and Scope of Transnational Repression*—the first global study of this dangerous practice—which Freedom House released in February 2021. The first phase of our research sprang from our engagement with academic researchers dedicated to examining transnational repression.

Finally, none of this would have been possible without exiles from Syria, Iran, Saudi Arabia, India, Egypt, Rwanda, Russia, China, Turkey, Vietnam, Equatorial Guinea, and Ethiopia who agreed to speak with us about their experiences of transnational repression. Their courage and resilience are an inspiration.

Endnotes

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