NEEDS ASSESSMENT OF THE NATIONAL REFERRAL MECHANISM FOR VICTIMS OF TRAFFICKING IN HUMAN BEINGS IN UKRAINE

OSCE
Organization for Security and
Co-operation in Europe
OSCE Project Co-ordinator in Ukraine

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Assessment Report

Kyiv – 2008

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LIST OF ABBREVIATIONS

ABA	American Bar Association
CC	Criminal Code of Ukraine
CIS	Commonwealth of Independent States
CPC	Criminal Procedure Code of Ukraine
EC	European Commission
EU	European Union
IO	international organization
ILO	International Labour Organization
IOM	International Organization for Migration
MFA	Ministry of Foreign Affairs of Ukraine
MinFYS	Ministry of Ukraine for Family, Youth and Sports
MOI	Ministry of Interior of Ukraine
NGO	non-governmental organization
NRM	National Referral Mechanism
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
OSCE PCU	Organization for Security and Co-operation in Europe Project Co-ordinator in Ukraine
THB	trafficking in human beings
SIDA	Swedish International Development Co-operation Agency
UN	United Nations
UNDP	United Nations Development Programme
UNHCHR	United Nations High Commissioner for Human Rights

EXECUTIVE SUMMARY

This Report assesses the situation of trafficking in human beings in Ukraine, in particular with regard to the identification, referral, assistance and protection of the rights of trafficked persons. It reviews the current responses by government and non-government institutions to the problems and needs of trafficked persons. The scope of the Report does not include the assessment of preventive activities or practices concerning the prosecution of perpetrators. Based on the findings, the Report provides recommendations on strengthening the identification of trafficked persons in Ukraine, protection of their rights and enhancing their access to assistance within the framework of an effective National Referral Mechanism in Ukraine.

The overall aim of the Report is to assist Ukraine in strengthening the capacity of the systems to identify and refer trafficked persons for assistance, protect their rights and ensure their access to justice. The findings of the Report are based on the information obtained from national and regional key stakeholders as well as from international institutions involved in the field of combating trafficking in human beings in Ukraine. In addition, available data from relevant research and assessments related to the identification, referral, assistance and protection of the rights of trafficked persons was analysed and accessible legislation was reviewed. The feedback from key stakeholders in Ukraine (including international organisations (hereinafter, the "IOs")), the OSCE Secretariat in Vienna and ODIHR on the preliminary findings and proposed recommendations was integrated in the Report.

Over the past years, efforts have been made by the Government to improve the normative and legislative regulations of the issues related to combating trafficking in human beings and to provide assistance to trafficked persons. With the new *"State Programme of Combating Trafficking in Human Beings for the Period until 2010"* (State Programme), the Government aims to create conditions for combating trafficking in human beings, to enhance the efficiency of the work related to the identification of crimes and to resolve the problems related to the reintegration of trafficked persons. co-operation with NGOs and IOs is explicitly highlighted, though direct funding by the State of NGOs working with trafficked persons is still not envisaged. At large, the *State Programme* is still very general and lacks some important elements, such as performance indicators. This also applies to the regional programmes.

The Ministry of Ukraine for Family, Youth and Sports, which within the framework of the State Programme assumes a co-ordination role, very much strives to further the process of developing a well-functioning National Referral Mechanism. At national and regional level, relevant bodies have been established for the co-ordination of activities related to combating trafficking in human beings. Little experience is yet available as to the functioning of the newly created Inter-Agency Council, which is not only to deal with trafficking issues, but also with matters related to family, gender equality, and demographic development. The Expert Working Group on the Issues of Prevention of Domestic Violence and Combating

Trafficking in Human Beings, however, is a well-established advisory body. It is expected to positively contribute – within its capacity to act – to the development of a National Referral Mechanism. At regional level, co-ordination bodies are not yet fully operational in all of the regions ("oblasts").

In the absence of a national model provision on the mode of operation, the quality and functioning of co-operation mechanisms at regional level differ from one oblast to another. Similarly, the level of participation of governmental agencies in existing co-operation schemes nationally and regionally varies from institution to institution. Quite often, such partnerships depend on personal contacts.

While national, regional and local authorities play a key role in the fight against trafficking in human beings, in many instances they have not yet fully recognized their responsibilities for their participation in the identification of and assistance to trafficked persons. In some cases, it was argued that it is not within their terms of references. Others referred to their limited resources and little experience for attending these issues. Their involvement in these processes therefore has to be strengthened and multidisciplinary co-operation and co-ordination needs to be increased within the National Referral Mechanism. In some instances, serious efforts have been made or are underway to tackle this problem. The Ministry of Interior, for instance, has created departments for combating trafficking in human beings at central and oblast (regional) level and good co-operation with anti-trafficking NGOs has been established, which makes it possible to refer trafficked persons to support services. These involve particularly NGOs, which are supported by IOM and provide assistance to trafficked persons under co-operation agreements with IOM. In most cases, social authorities are not directly involved in this process, even in the oblasts where no anti-trafficking NGOs are active, as in such cases the police usually refer trafficked persons directly to IOM. Also, the State Employment Service is currently endeavouring to sensitise staff of employment centres on the needs of trafficked persons and train them accordingly as well as to enhance co-operation with anti-trafficking NGOs.

Victims of trafficking are basically identified by the police as victims of crime or by social services providers, particularly NGOs. Most cases are reportedly related to sexual exploitation. Experiences with cases of labour exploitation or other forms of exploitation are just at nascent stage. Likewise, only little information is available as to the phenomenon of internal trafficking, as well as on the numbers and profile of non-Ukrainian citizens who were subject to trafficking in human beings.

With regard to children who had been trafficked, no special procedures are in place for their rapid identification, and the personnel of the social authorities dealing with children, including educational institutions, mainly do not have the expertise to participate in the identification process. As a result, no special national rehabilitation programmes for trafficked children could be identified.

There is no unified consolidated statistics on the numbers and profile of trafficked persons in Ukraine. Law enforcement agencies hold the official statistics of those whom they registered. NGOs and IOM maintain their own databases of those whom they assisted.

In many areas, social authorities may establish contact with trafficked persons but for several reasons, be it the lack of skills to actively participate in the identification process, restricted terms of references or other reasons, they usually do not identify trafficked persons as such and therefore they do not have their own statistics on trafficking cases.

According to IOM, almost 95% of all assistance programmes addressing the needs of trafficked persons in Ukraine are being financed by IOM. Most NGOs currently active in anti-trafficking activities have built their capacities through the support of foreign/international funding, and many of them have established partnerships with national authorities and are now important service providers to trafficked persons. In six oblasts, NGOs run rehabilitation centres for trafficked persons, which offer a wide range of services and shelter. While the bulk of funding for these centres comes from IOM or other donors, the Government may provide subsidized facilities and in-kind support. Therefore, sustainability of the level of theses services at present depends very much on the international community.

Upon the initiative of the Ministry of Ukraine for Family, Youth and Sports, 20 anti-crises centres were set up in the regions to address the needs of families in crises and in 14 regions shelters were established alongside these centres. Although these centres and shelters may also be used for trafficked persons, reports indicate that so far only a few trafficking cases have been registered. Similar reports were received from other service providers, such as healthcare institutions. One main problem of social authorities is related to the limited financial resources of the State to cover the costs involved for the provision of adequate assistance. Another reason for not utilizing these services may be linked to the lack of skills and experience of staff of social authorities to spot trafficked persons and tend to their pertinent needs. This, again, may be related to the lack of specific regulations for the provision of support and assistance to trafficked persons.

At present, there is no specific law on trafficking in human beings. The Ministry of Ukraine for Family, Youth and Sports, with the support of the OSCE Project Co-ordinator in Ukraine, however, initiated a process of drafting a comprehensive law on combating trafficking in human beings, which should address all aspects of human trafficking and guarantee that all trafficked persons have access to assistance and protection.

The majority of returns to Ukraine is organised by IOM. Also, La Strada-Ukraine assists trafficked persons in returning; in some instances, local NGOs may get involved in the return procedures. Ukrainian missions abroad participate in the process mainly in connection with the issuance of travel documents for the return.

No special legal provisions, such as the granting of a reflection period, exist for trafficked persons who are not from Ukraine, hence the regular migration regime applies. Returns to their countries of origin are basically organized by NGOs through the IOM network or La Strada-Ukraine, while the State does not assume responsibility for conducting a proper risk assessment.

Various reasons, such as the absence of a notion of non-punishment of victims, the existence of an administrative provision against prostitution, disregard for/poor handling of the principle of confidentiality still create a barrier for trafficked persons to reveal their experiences to the authorities.

A person who is recognized as victim of crime enjoys all rights of a party in court proceedings and can make use of the right to protection. However, proceedings usually take long, the procedures to obtain compensation for damages are complicated and free legal aid is not automatically provided and/or paid for by the State. In various cases, efforts are made to tackle some of these problems and it needs to be seen how the proposals to improve the access to justice and to solve the problems of compensation and assistance for trafficked persons are being pursued.

INTRODUCTION

A comprehensive approach to tackling trafficking in human beings involves measures to prevent trafficking in human beings, prosecution of those who facilitate or commit the crime, as well as the promotion and protection of human rights of trafficked persons.[1]

By recognizing that human trafficking is not simply a criminal activity, but also one that has profound human rights implications, both for victims and for the governmental and non-governmental institutions dealing with them, the establishment of an effective National Referral Mechanism (hereinafter NRM) is a very important step to ensure that the human rights of trafficked persons are protected. An NRM is considered to be 'a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society'.[2] The concept of the NRM is based on the definition of human trafficking contained in the UN Trafficking Protocol and implies the implementation of sustainable mechanisms and structures to combat trafficking in human beings and support victims. In the context of an NRM, the term "referral" means the transfer and access of trafficked persons to a support and service institution. The OSCE Action Plan, which helps the participating States to put into practice their commitments to combat trafficking in human beings, contains a set of recommendations relevant to the development of an NRM. These include *i.a.* the creation of partnership with civil society and other actors working in this field, the provision of guidance to properly identify trafficked persons, and the establishment of cross-sector and multidisciplinary teams to develop and monitor the anti-trafficking policies.[3] Furthermore, the NRM should comply with the recommendations of the OSCE Action Plan, which are of particular importance to the protection and assistance, such as those:

- Victims of trafficking are not subject to criminal proceedings as a result of having been trafficked.[4]
- States take measures to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings and for their relatives and other persons close to them.[5]
- States ensure data protection and the victim's right to privacy, also in the course of data collection and analysis.[6]
- States provide legal counselling for victims when they are in the process of deciding whether or not to testify in court.[7]

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1 OSCE Permanent Council Decision No 557/Rev.1, Action Plan to Combat Trafficking in Human Beings, 2005 (PC.DEC/557/Rev.1).

2 See OSCE/ODIHR, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook, Warsaw, 2004.

3 OSCE Action Plan, Chapter V, 3.

4 OSCE Action Plan, Chapter III, 1.8.

5 OSCE Action Plan, Chapter III, 4.1.

6 OSCE Action Plan, Chapter III, 4.3.

7 OSCE Action Plan, Chapter III, 4.5.

- States permit NGOs to support victims in court hearings.[8]
- States establish telephone 'hotlines' to act as an independent source of advice and guidance and a first point of contact for referral as well as to facilitate the anonymous reporting of cases.[9]
- States adopt legislation which provides a legal basis for rendering assistance and protection.[10]
- States establish shelters to meet the needs of trafficked persons and that access to shelters is for all victims of trafficking regardless of their readiness to co-operate with authorities in investigations.[11]
- States develop social assistance and integration programmes including legal counselling, medical and psychological assistance and access to healthcare.[12]
- States assist victims in voluntary repatriation with due regard for their safety and that of their families.[13]
- States provide a reflection period and temporary or permanent residence permits.[14]
- States ensure that the confiscated proceeds of trafficking are used for the benefit of victims of trafficking and consider establishing a compensation fund for victims of trafficking.[15]

The ODIHR Handbook on NRMs provides effective guidance on how to develop and implement sustainable mechanisms and structures to combat trafficking in human beings as well as on how to monitor and build the necessary capacities.

A solid understanding of the functions, responsibilities and activities of national stakeholders involved in various aspects of combating trafficking in human beings and the knowledge of the context and circumstances in which they should be embedded serves as a first step in the creation of an effective NRM in Ukraine. In order to facilitate this process, the present report was prepared upon request of the Ministry of Ukraine for Family, Youth and Sports (hereinafter, the "*MinFYS*") with the support of the OSCE Project Co-ordinator in Ukraine. It may also be useful to framework the required co-operation and co-ordination among key stakeholders, as well as to facilitate the removal of gaps in combating trafficking in human beings in Ukraine.

In the view of the above, the overall objective of this assessment is to assist Ukraine in building the capacity of the systems in relation to identification, referral, assistance and

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[8] OSCE Action Plan, Chapter III, 4.6.
[9] OSCE Action Plan, Chapter IV, 4.11.
[10] OSCE Action Plan, Chapter V, 2.1.
[11] OSCE Action Plan, Chapter V, 4.
[12] OSCE Action Plan, Chapter V, 6.
[13] OSCE Action Plan, Chapter V, 7.1.
[14] OSCE Action Plan, Chapter V, 8.
[15] OSCE Action Plan, Chapter III, 1.5.

protection of the rights of trafficked persons. On the basis of the findings, the Report provides recommendations for strengthening the identification of and assistance to trafficked persons in Ukraine, for the protection of their rights and the facilitation of their access to justice within the framework of an effective NRM. Bearing this in mind, the scope of the Report does not include an assessment of preventive activities or practices related to investigative and prosecutorial efforts. Consequently, the recommendations do not cover the issues related to the prevention of trafficking in human beings, neither the prosecution of the perpetrators.

The structure of the Report is designed according to the main components to be dealt with by an NRM, namely institutional framework, identification, co-operation, support and protection services, as well as repatriation and social inclusion. Furthermore, it touches upon certain aspects of access to justice and protection of personal data. In some instances – also depending on the availability of information – references are made to the practices applied in order to demonstrate specific examples. This is not intended to illustrate best or bad practices, but rather to reflect the present situation. In this context, certain oblasts may be mentioned more often, mainly because of their exposure to specific situations.[16]

The methodology applied included a review of national legislation currently in place and other relevant documents in the field of trafficking in human beings in Ukraine, as well as a series of interviews with governmental and non-governmental stakeholders at central and regional level in Kyiv and in eight oblasts. For this purpose, missions were undertaken to the oblasts of Cherkasy, Chernihiv, Chernivtsi, Donetsk, Kharkiv, Khmelnytskyi, Lviv, and Odesa. These oblasts were chosen in order to have a balanced selection in respect of geographical and socio-economic coverage, institutional capacities of dealing with trafficking, and exposure to migration flows. In addition, one-on-one interviews were held with representatives of relevant international institutions. In total, more than 100 representatives from different institutions kindly made their time available for the interviews, which took place between mid-October and beginning of November 2007. Moreover, questionnaires had been developed for representatives of the law enforcement/judiciary institutions and social services providers, which were handed over to the respondents following the interviews in order to obtain more specific information.

The preliminary findings and proposed recommendations were shared and discussed with key stakeholders in Ukraine (including IOs), the OSCE Secretariat in Vienna and the ODIHR in order to obtain their comments. The feedback was integrated in the Report. In short, the information gathered from key stakeholders constitutes the main source of information for this Report.

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[16] This applies, for instance, to the Odesa Oblast, which is a transit region for many Ukrainian and non-Ukrainian citizens.

THE CONCEPTUAL AND OPERATIONAL STRUCTURE IN UKRAINE

STATE PROGRAMME OF COMBATING TRAFFICKING IN HUMAN BEINGS

In March 2007, the Cabinet of Ministers of Ukraine approved the State Programme of Combating Trafficking in Human Beings for the Period until 2010[17] (hereinafter, the "*State Programme"*). The previous programme ended in 2005[18] .

The overall objective of the said State Programme is to create conditions for combating trafficking in human beings and trafficking-related crimes, to improve the efficiency of the activities targeting the identification of such crimes and their perpetrators, and to resolve the problems concerning the reintegration of trafficked persons. Among other things, the State Programme aims to improve the mechanism of normative and legislative regulation of the issues related to counteracting human trafficking; to provide assistance to trafficked persons; to facilitate the activities of the rehabilitation centres for assistance to the victims of trafficking; to co-operate with NGOs and international organizations; and to use international experience in prevention of and fight against human trafficking; and protection of human rights of those who suffered from the crime. Central and local bodies responsible for the implementation of the State Programme are tasked to submit to the MinFYS a report about the progress in the implementation of the State Programme on a bi-annual basis and the MinFYS shall inform the Cabinet of Ministers accordingly once a year. The "*Plan of Activities to Combat Trafficking in Human Beings for the Period until 2010*", which is annexed to the State Programme, lists the measures to be taken for the implementation of the Programme and names the entities responsible for putting the State Programme into practice.

The State Programme is still too general. The consolidated approach of the State Programme involving all key actors, including NGOs and IOs, can serve as a good basis for the development of an effective NRM. Also encouraging is that central and local bodies are equally tasked to utilize the funds allocated to them by the state and local budget for the implementation of the State Programme. However, details on the scope and the sources of funding for the activities within the State Programme as prescribed in the Cabinet of Ministers Decree No 106 of 31 January 2007[19] , which defines the procedures for the development and implementation of state programmes, are missing. Unfortunately, direct funding of anti-trafficking NGOs by the state and local budget is not envisaged as well. Over and above that, the availability of sufficient funds for the implementation of the State Programme generally remains a major issue.

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[17] Cabinet of Ministers of Ukraine, Decree No 410 of 7 March 2007 'On Approving the State Programme of Combating Trafficking in Human Beings for the Period Until 2010'.

[18] Cabinet of Ministers of Ukraine, Decree No 766 of 5 June 2002 'On Approving the Comprehensive Programme of Combating Trafficking in Human Beings for 2002-2005'.

[19] Cabinet of Ministers of Ukraine, Decree No 106 of 31 January 2007 'On the Drafting and Implementation of the State Target Programmes'.

Likewise, some other elements set out in the Cabinet of Ministers Decree No 106 of 31 January 2007 may require more specification. In particular, quantitative and qualitative indicators of the effectiveness of the State Programme implementation are not precisely determined.

Looking at the expected results, it is interesting to note that particular attention is being paid to the inclusion of anti-trafficking issues into educational curricula for children and youth, especially in orphanages and boarding schools. During the interviews for this assessment, the impression was often given that particular educational institutions do not sufficiently assume responsibility for combating this problem as it is not within their terms of reference. While to some extent preventive activities are carried out, apart from a few exceptions, little efforts had been made so far to sensitize and train particularly teachers and school psychologists on human trafficking issues so that they have the skills to identify trafficked children.

The State Programme may indeed contribute to the improvement of professional competence and expert knowledge of the officials and NGO representatives working in the field of combating trafficking at central and local level, if sustainability is ensured. At the moment, even the training activities targeting specific experts often have not led to expected results because of the high turn-over of staff.

Measures aiming at improving co-operation, be it between law enforcement agencies in Ukraine and abroad or with NGOs and international institutions as stipulated in the State Programme, will definitely facilitate the work of all stakeholders. Well-functioning co-operation structures particularly among government institutions and civil society are very essential for an effective NRM. This may involve *i.a.* the immediate referral of trafficked persons to support and assistance services.

As to the provision of assistance to victims of trafficking, the State Programme seems to primarily target Ukrainian citizens. No special provisions refer to procedures for the repatriation and social inclusion of trafficked persons from other countries or address their support and protection needs in Ukraine. There are, however, indicators that Ukraine is – although still low in numbers – becoming a country of destination[20]. This aspect needs to be further investigated in order to be able to remove possible gaps, so that the human rights of all trafficked persons are properly protected in Ukraine.

[20] See also UNODC, Trafficking in Persons: Global Patterns, April 2006, according to which Ukraine ranks medium as destination country. Also the latest IOM statistics show that Ukraine is already a destination country. Likewise, see UNODC, An Assessment on Referral Practices to Assist and Protect the Rights of Trafficked Persons in Moldova, February 2007, p. 17, which states that most deported victims come from Turkey and Ukraine.

REGIONAL PROGRAMMES OF COMBATING TRAFFICKING IN HUMAN BEINGS

With the adoption of the State Programme, the regions were instructed to develop/revise their Regional Programmes for combating trafficking in human beings (hereinafter, the "*Regional Programmes*") accordingly. The respondent of the MinFYS reported that 20 Regional Programmes[21] have been adopted so far.

It was noted that in some regions programmes were not yet developed, for instance due to lack of potential funding for the implementation of these programmes. Those, which had been adopted, usually include only general provisions according to which local budget allocations should be made to fund the implementation of measures of the programme. But it remains to be seen whether the effective budget allocations will indeed be adequate to meet all the needs.

In many other areas, the regional programmes often lack specification as well. For instance, a co-ordination body is usually defined by the regional programme. In some instances, such body is also tasked to assume monitoring functions. However, the roles and responsibilities of this body are not sufficiently specified and much depends on personal engagement of individual staff. Even where monitoring of the prescribed measures is envisaged, indicators to assess the success or failure of the measures are largely missing.

Similarly, most regional programmes provide for regular reporting on the progress of the implementation of the programme. Formal requirements for the submission of reports (*e.g.* reporting date and path) are mostly determined, but specific guidance as to the content is hardly provided, so it remains unclear what kind of information is specifically expected.

Equally, the regional programmes usually touch upon questions related to co-operation and co-ordination among governmental agencies and with civil society and IOs. But in most instances, the mode of co-operation is not specified, although most regional programmes encourage the involvement of IOs and NGOs in the implementation of projects and the usage of international experiences in the field of prevention of trafficking and protection of trafficked persons.

Most programmes also refer to the importance of providing training and professional development for state employees, pedagogues and others on human trafficking issues,

[21] The Chernihiv Regional Programme for instance was adopted on 28 August 2007. The Regional Programme of the Cherkasy Oblast was approved on 31 August 2007. The Kyiv City Council approved the Regional Programme on 16 August 2007 and the Lviv Regional Programme was approved on 17 September 2007. The Regional Programme of the Odesa Oblast was first adopted in 2002, and updated in 2007. The draft Regional Programme in Crimea is expected to be adopted soon.

but again there are only a few instances where the type of such training is put in a more specific form.

All programmes provide for a number of measures to prevent trafficking in human beings as well as to provide protection and support services to trafficked persons. Sometimes the involvement of IOs and/or NGOs is explicitly envisaged. As to the protection and support services for trafficked persons, reference is usually made particularly to the necessity of addressing their specific medical, psychological and legal needs and making joint efforts to improve the rehabilitation of trafficked persons and their (re)integration into the labour market. In part, the regional programmes substantiate these measures, especially when it comes to the development of programmes and mechanisms for the social and psychological rehabilitation of trafficked children.

The regional programmes can pave the way for the development of well-functioning regional referral mechanisms in the field of trafficking in human beings as part of the NRM if there is a better understanding of relevant roles, responsibilities and capacities of the key actors and if the question of monitoring and evaluation of measures as well as of co-ordination and co-operation structures involving state actors and civil society are better defined.

While the Governmental Decree No 106 of 31 January 2007 is not directly applicable to regional programmes, it may still serve as a model for the development, implementation and monitoring of such programmes.

INSTITUTIONAL ANTI-TRAFFICKING FRAMEWORK AND KEY GOVERNMENTAL STAKEHOLDERS IN UKRAINE

At national and regional level, bodies have been set up to deal with the issue of combating trafficking in human beings. They involve a variety of actors, though most Ministries or Departments have no special units established for combating trafficking in human beings, but deal with anti-trafficking issues within their scope of responsibilities.

Inter-Agency Council on the Issues of Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings

On 5 September 2007, the Cabinet of Ministers of Ukraine approved the creation of an Inter-Agency Council on the Issues of Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings (hereinafter, the "*Inter-Agency Council*").[22] Same Cabinet decision terminated the functioning of the previously

[22] Cabinet of Ministers of Ukraine, Decree No 1087 of 5 September 2007 'On the Consultative and Advisory Bodies for the Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings'.

existing Inter-Agency Co-ordination Council on Combating Trafficking in Human Beings previously established by the Cabinet of Ministers in December 2002. This new Inter-Agency Council, which is chaired by the Minister for Family, Youth and Sports, is supposed to be a standing consultative and advisory body established at the Cabinet of Ministers of Ukraine. While the resolution lists all members of the Inter-Agency Council, it also stipulates that the Inter-Agency Council can involve leading researchers, specialists, representatives of enterprises, institutions, NGOs, and funds, including international ones.

The main tasks of the Inter-Agency Council include *i.a.* the analysis of the drafts of state targeted programmes and other legal instruments related to the state policy as well as the development of strategies and recommendations in the above named areas. These recommendations may be implemented through relevant resolutions of the Cabinet of Ministers of Ukraine or instructions by the Prime Minister of Ukraine. The Inter-Agency Council shall also initiate an implementation monitoring of the relevant state targeted programmes and their impact on the situation in the regions and the country. The Inter-Agency Council has the right to establish, as necessary, expert and working groups and engage the representatives of executive agencies, local governments, research institutions, and NGOs for preparing proposals on the efficient implementation of the state policy.

The Inter-Agency Council should hold meetings at least once every three months. If required, extraordinary sessions may be convened. Officials from executive agencies, local governments, enterprises, institutions, and organizations regardless of their form of ownership may be invited to the sessions of the Inter-Agency Council. As the first meeting took place in December 2007 only, no information is available yet as to its functioning.

Expert Working Group on the Issues of Prevention of Domestic Violence and Combating Trafficking in Human Beings

The Expert Working Group on the Issues of Prevention of Domestic Violence and Combating Trafficking in Human Beings (hereinafter Expert Working Group), which is headed by the Deputy Minister of Ukraine for Family, Youth, and Sport, is a multi-agency consultative and advisory body with the Inter-Agency Co-ordination Council for Combating Trafficking in Human Beings (and since September 2007 – with the Inter-Agency Council on the Issues of Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings). It is comprised of representatives of governmental institutions, civil society, IOs and research institutions, which participate in the implementation of measures to combating human trafficking and prevention of domestic violence. The Expert Working Group was created for the purpose of prompt co-ordination of implementation of measures aimed at the prevention

of domestic violence and human trafficking. The main tasks include *i.a.* co-ordination of implementation of measures, the resolution of issues determined by the State Programme, the preparation of proposals regarding improvement of performance of central and local executive authorities, co-operation with non-governmental and international organizations, participation in monitoring activities, co-operation on the provision of assistance to victims of violence including human trafficking, their rehabilitation and reintegration into society.[23]

Regional Councils

Within the framework of the Regional Programmes, regional advisory boards (hereinafter, the "*Regional Councils*") were set up in all 27 regions since 2002 in compliance with the Comprehensive Programme to Combat Trafficking in Human Beings for 2002-2005. While the Regional Councils have not been operating in all oblasts, they are apparently still active in some regions (*e.g.* Chernihiv[24]) or have been re-activated (*e.g.* Odesa[25]). The new State Programme is expected to lead to a revision of these inter-agency bodies, where they are dormant.

Ministry of Ukraine for Family, Youth and Sports[26]

Within the framework of the State Programme, the MinFYS assumes a co-ordination role, which is basically performed by the Department of Family, Gender Policy and Demographic Development. The Department is composed of 21 staff members who have to cover five areas, namely social support to families, demographic development, gender policy, combating trafficking in human beings and domestic violence. It was said that the human resources to cover all these areas are indeed low, but they are even lower at regional level[27] and funding remains a major problem. Within the Department, the Office of Prevention of Domestic Violence and Combating Trafficking in Human Beings is mainly responsible for all issues related to trafficking in human beings including co-ordination functions as assigned by the State Program.

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[23] Ministry of Ukraine for Family, Youth and Sports, Order No 2546 of 16 July 2007 'On Creation of the Expert Working Group on the Issues of Prevention of Domestic Violence and Combating Trafficking in Human Beings'.

[24] In the Chernihiv Oblast the Regional Council serves as forum for exchange of information, reports on activities and for the development of recommendations. NGOs are also participating in this forum. The Council meets once every three months.

[25] In the Odesa Oblast, the members of the Council are representatives of the Security Service, Border Guard Service, Odesa Oblast Department for Combating THB, local NGOs and others.

[26] As to the division of responsibilities at Ministry, oblast, regional and city level please see the table in the annex, which had been prepared by the MinFYS.

[27] For instance in Chernivtsi Oblast the person dealing with the issue of human trafficking is also responsible for six other components within the Department for Family and Youth.

The MinFYS is also tasked to provide logistical support to the Inter-Agency Council.

State Social Service for Family, Children and Youth

The State Social Services for Family, Children and Youth is *i.a.* responsible for the social supervision, rehabilitation, and adaptation of families with children who find themselves in difficult life situations, foster families, family-type orphanages, and the graduates of boarding school institutions (who comprise the core of the State Social Service's target group) and the provision of social support and assistance to them. The national network of the State Social Service, comprised of over 1,600 Centres for Social Services for Family, Children and Youth and over 3,700 specialized units, has been developed to perform social work tasks for these vulnerable categories throughout Ukraine. The activities comprise *i.a.* the provision of social services (*e.g.* legal, psychological, social-medical, social-pedagogical, social-economic, and information services), social accompaniment and social rehabilitation care[28] .

State Department for Adoption and Protection of the Rights of the Child

The State Department for Adoption and Protection of the Rights of the Child deals with the development and implementation of state policy on children and family matters. The State Department co-ordinates the activities of the institutions and services for children affairs related to the adoption of children, guardianship, care and placement into foster families and family-type orphanages. The State Department's tasks include the facilitation of implementation of Ukraine's obligations under the UN Convention on the Rights of the Child and other international agreements of Ukraine in the field of protection of the rights of the child, adoption, guardianship and care. Finally, the State Department summarises the practice of implementing the legislation in the field of adoption of children, guardianship and care, placement into foster families and family-type orphanages, prevention of child neglect and homelessness, protection of the rights, freedoms and interests of the child, as well as the development of proposals for the improvement of such legislation.[29] In the regions the Services for Minors/Services for Children's Affairs are responsible for overseeing the adherence to the rights and interests of children.

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[28] http://dss.visti.net/ua_work_summary.phtml

[29] http://dss.visti.net/ua_index.phtml. For further details see http://www.dcssm.gov.ua http://www.kmu.gov.ua/sport/control/uk/publish/category?cat_id=50693.

Ministry of Interior of Ukraine

In 2000, a counter-trafficking unit was established within the Ministry of Interior of Ukraine (hereinafter, the "*MOI*") and in 2005[30] a special Department for Combating Crimes Related to Trafficking in Human Beings was set up. Such departments now exist in all regions. 23 persons are currently assigned to the Department within the MOI.[31] The objective of the Department for Combating Crimes Related to Trafficking in Human Beings of the Ministry of Interior of Ukraine and the regional departments/ units (hereinafter, the "Department for Combating THB") is to prevent and to detect facts of human trafficking, to combat irregular migration, crimes against public morality, illegal child adoption, violation of the legal procedure related to transplantation of human organs or tissues, production and distribution of child pornography via the Internet, and to control business entities providing services of employment abroad, tourist business entities, matrimonial and model agencies, as well as, where applicable, employment agencies for sailors. The main focus is to identify trafficked persons and to break up national and trans-national criminal networks and prosecute traffickers.

Many representatives of the oblast (regional) Departments for Combating THB claimed that the limited funds hinder the investigation process. In some instances, regional Departments for Combating THB do not even have sufficient petrol to transport trafficked persons. Furthermore, it was noticed that in some regions more specialized personnel with language skills would be needed because of the deep involvement in transnational activities.

The staff from the oblast (regional) Departments for Combating THB attended various training activities, which were supported by IOM, La Strada-Ukraine, and the OSCE. Besides, they regularly participate in training events held by the International Law Enforcement Academy and other educational institutions abroad.

Security Service of Ukraine

Within the Security Service of Ukraine, the *Main Department for Combating Corruption and Organized Crime* is responsible for the issues related to trafficking in human

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[30] Ministry of Interior of Ukraine, Order No 931 of 20 October 2005 'On the Approval of the Regulation on the Department for Combating Crimes Related to Trafficking in Human Beings of the Ministry of Interior of Ukraine and a Reference Regulation on the Directorate (Unit) for Combating Crimes Related to Trafficking in Human Beings of the Main Departments of the Ministry of Interior of Ukraine in the Autonomous Republic of Crimea, the city of Kyiv and the Kyiv Oblast, and the Departments of the Ministry of Interior of Ukraine in the oblasts and the city of Sevastopol.

[31] The Department is composed of male and female staff, who regularly participate in training activities on combating crimes.

beings. The Security Service focuses primarily on the investigation of organized criminal groups.[32]

The EU Commission is currently providing training on human trafficking issues including the identification of victims and of traffickers. Any other in-house training specifically focusing on this area apparently has not taken place as yet.

General Prosecutor's Office of Ukraine

According to Decree No. 26 of the Prosecutor General of Ukraine of 21 March 2007, the supervision of compliance with the law by the bodies responsible for combating trafficking in human beings and related crimes as well as for the investigation of such crimes, for taking measures to protect the rights of citizens from offences and for the punishment of the guilty party is one of the priority directions of work of the prosecution agencies. In order to ensure the appropriate implementation of this function special prosecutors have been appointed within the prosecutor's offices at oblast level and within the divisions of the administration of the General Prosecutor's Office of Ukraine. These prosecutors are instructed to conduct analytical researches on a systematic basis and to co-ordinate the activities of law enforcement agencies in the field of prevention. [33]

Furthermore, based on the work results of six months in 2007, the General Prosecutor's Office of Ukraine sent letters to the regional prosecutors in order to strengthen their supervisory functions as regards adherence to law in certain areas. Moreover, drawing from work experiences the General Prosecutor's Office of Ukraine drafted recommendations concerning the detection and investigation of crimes related to trafficking in human beings. These recommendations were forwarded to the field for implementation after approval by the scientific-methods council.

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[32] For instance, in the Department of the Security Service of Ukraine in Odesa Oblast one staff member is directly responsible for human trafficking issues. The well-established contacts with security services abroad facilitate the co-operation on actions to combat trans-national offences involving criminal groups.

[33] With regard to the supervisory role of the General Prosecutor's Office see also Articles 5, 29 and 30 of the Law of Ukraine 'On the Prosecutor's Office' as well as Orders of the Prosecutor General of Ukraine No 4gn 'On the Organization of Supervision over Compliance with the Law by the Inquiry and Prejudicial Investigation Authorities', No 4/1gn 'On the Organization of Prosecutor's Supervision over Compliance with the Law by the Investigation Authorities' and No 4/2gn 'On the Organization of Prosecutor's Supervision over Compliance with the Law by Special Subdivisions and Other Institutions that Combat Organized Crimes' dated 19 September 2005. Concerning its co-ordination function see *i.a.* Article 10 of the Law of Ukraine 'On the Prosecutor's Office' and paragraph 23 of the Order of the Prosecutor General of Ukraine No. 1 'On the Organization of Work and Administration in Prosecutor's Offices in Ukraine' dated 19 September 2005.

Besides, the General Prosecutor's Office of Ukraine participated in the drafting of various regional programmes (in particular, within the CIS) on combating trafficking in human beings.

Trainings for law enforcement officers involved in investigation / prosecution were held at the National Academy of Ukrainian Public Prosecutor's Office together with researchers, specialists of the law enforcement agencies, judicial, and control bodies dealing with trafficking issues.

Supreme Court of Ukraine and the Judiciary

Article 55 of the Constitution of Ukraine establishes court protection of human rights and liberties. The functioning of the judiciary is determined by the Law on Judiciary of Ukraine (No 3018-III of 7 February 2002). Article 2 of the Law stipulates that the task of the Court is to ensure the protection of human rights and liberties and Article 6 guarantees the protection of rights, liberties and interests of all parties of legal relationship.[34] The justice in cases of trafficking in human beings under Article 149 of the Criminal Code of Ukraine is exercised by the general jurisdiction courts. The Law of Judiciary envisages a possibility to introduce specialisation for judges of courts of different jurisdictions on specific categories of cases.

Among other functions, courts of appeal and the Supreme Court of Ukraine study and generalize the court practice and provide methodological assistance to the local courts in the application of legislation. The Supreme Court of Ukraine is the highest judiciary body within the system of courts of general jurisdiction. The Plenum of the Supreme Court of Ukraine is a collegiate body comprised of all Judges of the Supreme Court, heads of the supreme specialized courts and their First Deputies, the Head of the Cassation Court of Ukraine, and the Head of the Court of Appeals of Ukraine.[35] Among the functions of the Plenum is the provision of explanations to the courts of general jurisdiction with regard to the application of legislation on the basis of generalization of court practice and court statistics. Resolutions of the Plenum of the Supreme Court of Ukraine are important for ensuring uniform application of legal norms within the judiciary system throughout the country, they also serve as a reference for the law enforcement and judiciary bodies at both pre-trial and trial stages of investigation of criminal cases.[36]

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[34] Article 6 of the Law on Judiciary of Ukraine also establishes equal right to court protection for foreign nationals and stateless persons with those of Ukrainian citizens.

[35] Article 55 of the Law on Judiciary of Ukraine.

[36] Several Resolutions passed by the Plenum of Supreme Court of Ukraine concern the issues directly relevant to courts' treatment of trafficking cases, these include: Resolution No 13 of 2 July 2004 'On the Practice of Application by the Courts of the Legislation Concerning the Rights of the Victims of Crime', Resolution No 3 of 31 March 1989 'On the Practice of Application by the Courts of Ukraine of the Legislation on Compensation of Material Damages Caused by Crime and on Exaction of Unfoundedly Acquired Property', Resolution No 4 of 31 March 1995 'On the Court Practice in the Cases on the Compensation of Moral (Non-property) Damages'.

State Employment Service of Ukraine

The State Employment Service of Ukraine, which is a functional sub-division of the Ministry of Labour and Social Policy of Ukraine, employs specialists of both genders who, within the scope of their functions and responsibilities, pursue the prevention of irregular labour migration and human trafficking. At present a draft Unified Technology of Rendering Social Services to the Population is being tested in all oblasts. After that it is supposed to be approved by the State Employment Service and the Ministry of Labour and Social Policy. The Unified Technology will provide direction for staff of the State Employment Service at central, oblast and local levels in order to promote and increase employment of the population. It specifies the procedures to be applied by the employment centres and aims at pursuing a co-ordinated approach. Particular attention is being paid to the special needs of disabled persons, youth, minors and entrepreneurs who obtained support to start their own business or who intend to do so. A separate chapter within the Unified Technology refers to measures to be taken to prevent irregular labour migration and to combat human trafficking. The latter involves *i.a.* the provision of services for the socio-economic integration of trafficked persons and of job placement as well as the referral to governmental and non-governmental institutions for additional services.

The experiences of the employment centres were included into the chapter of the Unified Technology related to the prevention of irregular external labour migration and the combating of human trafficking. In addition, the Handbook 'Activity of the State Employment Centre in Prevention of the Irregular Outward Labour Migration, Combating THB and Elimination of Child Labour', prepared by ILO and IOM, was distributed in all employment centres and is planned to be posted on the web-site of the State Employment Service.

Educational Institutions

The core anti-trafficking activities of educational institutions are related to the prevention of trafficking in human beings. They offer *i.a.* seminars and courses for young people, hold lectures or run campaigns to make people aware of the risks. Many of these activities are carried out in close co-operation with anti-trafficking NGOs or other institutions. Specialized psychologists and social pedagogues work at schools and at vocational educational institutions to help vulnerable children and youth. The present provisions however do not consider tailor-made support programmes for trafficked persons.

General considerations

At this stage, it is not possible to assess the functioning of the Inter-Agency Council as the first session took place in December 2007 only. Bearing in mind that this body is supposed to cover four areas it remains to be seen how much of its work will in fact be focused on trafficking issues.

The Expert Working Group is the multi-agency consultative and advisory body also with the new Inter-Agency Council. It is already well established. Given its multi-disciplinary composition it is a valuable forum to contribute to the development of a well-functioning NRM. The Department of Family, Gender Policy and Demographic Development within the MinFYS is very active to further this process at national and regional level, also with a view of linking the activities of various stakeholders with referral structures. But resources to pursue all these challenges are limited, both within the Ministry's Department and in the regions.

At present time the roles, responsibilities and capacities of each stakeholder involved in various aspects of combating trafficking in human beings are often not clearly understood. In many areas state actors do not recognize their responsibility for their participation in the identification and assistance of trafficked persons, also because it is not specifically mentioned in their terms of reference (*e.g.* in the field of education, but also in relation to social services and others). At the same time several social services providers expressed concern over their limited capacities, which constrain them to respond to the special needs of victims of trafficking. Yet, in some instances, such as the employment sector, efforts are under way to attend some of the problems of trafficked persons.

The establishment of the Department for Combating THB within the MOI and in all regions is definitely considered an improvement. It allows specialisation in the field of trafficking in human beings and facilitates the participation of the police in referral structures. Although in some areas their resources are still not sufficient, their conditions of work are usually good.

MAIN LAWS IN THE CONTEXT OF TRAFFICKING IN HUMAN BEINGS[37]

On 4 February 2004, the Verkhovna Rada of Ukraine adopted the Law of Ukraine '*On Ratification of Convention of the United Nations Organization Against Transnational Organized Crime and Protocols That Supplement It*'.[38]

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[37] For further details see *i.a.* UNICEF, OSCE, USAID, British Council, Trafficking in Ukraine: An Assessment of Current Responses, Kyiv 2005, p. 23-38; and Marjan Wijers & Roelof Haveman, Guidelines on Trafficking in Human Beings for the Criminal Justice Chain in Ukraine, June 2006.

[38] Law 'On Ratification of the UN Convention against Transnational Organized Crime and its Protocols (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and Protocol against the Smuggling of Migrants by Land, Air and Sea)', No 1433-IV of 4 February 2004.
As to the ratification of other relevant international instruments see *i.a.* http://www.un.org/documents/instruments/docs_en.asp; http://www.ilo.org/ilolex/english/newratframeE.htm; http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?user=annot; regarding Council of Europe treaties signed and ratified by Ukraine or having been the subject of an accession see http://conventions.coe.int/Treaty/Commun/ListeTraites.asp?PO=U&MA=999&SI=2&DF=&CM=3&CL=ENG

Criminal Code of Ukraine[39]

Already in 1998, a provision on trafficking in human beings was included to the Criminal Code of Ukraine (hereinafter, the "*CC*").[40] Article 149 of the current CC stipulates that '*trafficking in human beings or conducting other illegal agreement with a person as an object, as well as recruitment, transportation, harbouring, transfer or receipt of a person, committed for the purpose of exploitation by means of deceit, blackmail, or the use of his/her vulnerable condition, is punishable by deprivation of liberty for a term of three to eight years*'. The second paragraph of this article refers to the same crime but committed '*in respect to a minor or perpetrated upon two or more persons, or repeatedly, or by a group of persons with prior conspiracy, or by an official through the abuse of authority, or by a person upon whom the victim was dependent materially or otherwise, or committed in combination with violence that is not endangering life or health of the victim or his/her close relatives, or in combination with threats of such violence*'. Such acts are punishable by imprisonment for five to twelve years, with the possible seizure of assets. The third part of this article applies to criminal acts pursuant to paragraph one or two, if they are committed in respect to a minor aged below 14, or by an organised group, or if they are carried out '*in combination with violence that is endangering life or health of the victim or his/her close relatives, or in combination with threats of such violence or committed by an organized group, or if causing grave consequences*'. These offences are punishable by imprisonment for eight to fifteen years, with the possible seizure of assets. With the latest revision of 2006, internal trafficking is clearly established as an offence under Article 149.

A number of other articles related to other serious offences are also of relevance in the trafficking context. These include *i.a.* Article 146 (Illegal confinement or abduction of a person), Article 150 (Exploitation of children), Article 152 (Rape), Article 153 (Violent unnatural gratification of sexual desire), Article 154 (Compulsion to sexual intercourse), Article 155 (Sexual intercourse with a sexually immature person), Article 302 (Creating or running brothels and trading in prostitution), Article 303 (Pimping or involving of a person into prostitution) and Article 304 (Engaging minors in criminal activity). Since the revisions of 2006 prostitution is no longer considered a criminal offence under Article 303. These changes also enhanced liability for the engaging or forcing into prostitution.[41] The aim of these revisions was to protect victims against blackmail as well as against threats from the accused

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[39] Criminal Code of Ukraine, Law No 2341-III of 5 April 2001.

[40] Ukraine became the third country in Europe (along with Belgium and Germany) which established criminal liability for human trafficking.

[41] See Law 'On Amending Criminal Code of Ukraine with Regard to Enhancement of Liability for Human Trafficking and the Engaging into Prostitution', No 3316-IV of 12 January 2006.

in case they testify. For the same reason Article 331 of the CC (Illegal Crossing of the State Frontier) was repealed.[42]

The CC also classifies as a crime the unauthorised sale or dissemination of restricted access information stored in computers, automated systems, computer networks on the carriers of such information (Article 361-2), as well as the denial of a witness to give evidence or denial of an expert or an interpreter/translator to perform the assigned duties (Article 385). However, as to the latter, the Law stipulates that a person shall not be subject to criminal liability for a denial to give evidence during an inquiry, pre-trial investigation or in court against him/herself or against members of his/her family or his/her close relatives the circle of whom shall be established by the law.

Criminal Procedure Code of Ukraine[43]

The Criminal Procedure Code (hereinafter, the "*CPC*") differentiates between victims, civil claimants and witnesses. It describes *i.a.* the procedure for the recognition of a person as a victim and the granting of a legal status as well as the rights and obligations of victims (*e.g.* entitlement to compensation, safety). The CPC does not specifically refer to victims of trafficking but generally defines a victim as 'a person, upon whom moral, physical or property damage was inflicted by the crime'. According to Article 49 of the CPC the decision to recognise or not to recognise a person as a victim is formalised by a written resolution, which is to be issued by an inquirer, investigator, and prosecutor determination or by the court. The official recognition as victim can only take place when it has been decided by the investigator – upon authorisation of the prosecutor – to open a criminal case. This may be made after the official statement of the victim or after the police submits a case to the investigator. Evidently, it is not necessary to produce the same evidence as for the decision to send a case to court.

Pursuant to Article 99 of the CPC, a victim may appeal against a decision to refuse initiation of a criminal case. Likewise, the victim can also appeal against a resolution to close a criminal case (CPC Article 215).

An investigator who has recognised a person as victim has the obligation to inform the victim on his/her rights. In case the crime caused material damage to the person, s/he or her/his representative must also be informed about the right to file a civil claim (CPC Article 122).

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[42] Law 'On Amending Several Legislative Acts of Ukraine with Regard to Crossing the State Border of Ukraine', No 1723-IV of 18 May 2004.

[43] Criminal Procedure Code of Ukraine, Law No 1001-05 of 28 December 1960.

Article 52 of the CPC permits a victim and a civil claimant to be represented by a lawyer or any other person of his/her choice, hence they shall enjoy the same procedural rights as the person they represent.

Various basic rights are linked to the legal recognition of a person as victim. According to Article 16 of the CPC, the victim (and also the civil claimant as well as their representatives) participates in court hearings as party and shall enjoy equal rights to bring forward evidence, participate in the examination of evidence and prove their cogency before court. Article 49 lists the rights of a victim, which also apply to his or her close relatives, if the victim died. These rights include *i.a.* the right to furnish evidence; to submit requests; to review all case material from the moment the pre-trial investigation was completed, or where no pre-trial investigation took place from the moment the case was brought to court; to participate in the court trial; to file motions for dismissals; to lodge complaints against actions of the inquirer, investigator, prosecutor and the court as well as to appeal against the sentence or resolutions of the court or of the people' judge; and on certain grounds to be granted security. In cases stipulated in the CPC, victims shall also have the right to support the prosecution during court proceedings. Furthermore, a victim is permitted to participate in the court debates.

Article 52-1 of the CPC explicitly stipulates the right to protection of victims involved in criminal proceedings in case of 'justifiable threat to their life, health, dwelling or property' (see also the Law on Ensuring Safety of Individuals involved in Criminal Proceedings). Article 52-2 of the CPC regulates the rights and responsibilities of persons under such protection and Article 52-3 of the CPC refers to the prohibition of disclosure of personal data of the person under protection, hence their real names will only be known to the prosecutor and the court.

In general, court proceedings are public. Under certain circumstances, however, the judge may order to have a closed court hearing. Pursuant to Article 20 of the CPC this may be the case if the crime is committed by a minor, or in matters related to sexual crimes and other cases to prevent publicity of information on intimate aspects concerning the personal life of participating persons, and also if required to guarantee security for persons under protection. This provision is not automatically applicable in human trafficking cases, as they are not explicitly mentioned by law.

The CPC also contains a number of provisions as to the position of witnesses and civil claimants including their rights and obligations. Pursuant to Article 50 of the CPC a civil claimant shall be a natural or legal person that suffered material damages from a crime and has filed a compensation claim for these damages in accordance with Article 28 of the CPC (civil claim in the criminal procedure). The decision on recognising a person as civil claimant shall be issued by the inquirer, investigator,

prosecutor or a court shall issue a court resolution in this matter. The rights of a civil claimant include *i.a.* the right to participate in the court proceedings as stipulated under Article 50 of the CPC and the right to protection. If a person fails to file a civil claim in the criminal case, or if the civil claim was not proceeded, Article 28 of the CPC stipulates that a lawsuit may then be filed under civil law procedures. In this case the investigator has to issue a motivated decision on the recognition as civil claimant (see Article 127 of the CPC).

The CPC mainly refers to the compensation of material damages, while Article 49 of the CPC also includes moral damages as one of identifying factors of a victim of crime.

Finally, Article 29 of the CPC obliges the inquiry body, investigator, prosecutor and the court in the course of proceeding of a criminal case to take measures to guarantee the compensation for damages caused by the crime and to ensure the potential confiscation of property of the accused.

Civil Code of Ukraine[44]

The Ukrainian Civil Code is of importance in relation to the right to reparation of damages, including material and moral damages. Provision on compensation of property (material) and moral damages is established in Article 11. Article 16 of the Civil Code refers to the right to appeal to the court for the compensation of losses and property and non-property (moral) damages. Principles of compensation are determined in Articles 22 (material damages) and 23 (moral damages); furthermore, it is established that the compensation of moral damages is done irrespective of the compensation of the material damages and their amounts are not interdependent. It is also noteworthy that the term property (*i.e.* material) damages covers both actual losses (*e.g.* caused by the damage to the property or the expenses for repairing the damage) and missed opportunity (*i.e.* income that could have been gained under normal conditions if the rights were not violated).

Law on Ensuring Safety of Individuals Involved in Criminal Proceedings[45]

The Law on Ensuring Safety of Individuals involved in Criminal Proceedings describes the notion of security protection of individuals involved in criminal procedures and the protecting organs including their obligations. The Law provides for the right of victims to make use of security arrangements, such as the right to file petitions concerning

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[44] Civil Code of Ukraine, Law No 435-IV of 16 January 2003.

[45] Law 'On Ensuring Safety of Individuals involved in Criminal Proceedings', No 3782-XII of 23 December 1993.

security measures, the right to be informed about security arrangements, the right to request and receive from the investigating authority, public prosecutor or court additional protection measures or cancellation of measures and to lodge complaints concerning unlawful decisions or actions of protecting authorities (Article 5 of the Law). Article 7 of the Law contains a demonstrative list of security arrangements, *e.g.* body guards or guards watching home and property; special individual protection means and warning devices; the use of technical means to listen in on telephone and other communication and visual surveillance; replacement of identity papers and changes of appearance; change of place of work or study; change of residence; enrolment in children's preschool educational institutions or social welfare institutions; closed court hearings; securing confidentiality of information on the person under protection (*e.g.* by classifying data pertaining to such a person in the documents of verification as well as in investigating and court records, changing the first, middle and last name therein with pseudonyms – as resolved by the investigating authority, public prosecutor or court ruling). The security arrangements are described in more details under Articles 8-16 of the Law.

Law on Social Services[46]

The Law on Social Services lays down organisational and legal norms for the provision of social services to persons who are in difficult situations and need assistance from the outside. Article 1 of the Law provides for a definition of 'social services'[47] , 'recipient of social services', 'difficult life circumstances', 'social workers', 'social service institutions', 'volunteers', 'interim shelters for adults', 'interim shelter for juveniles', 'rehabilitation' and specifies the entities that are engaged in the provision of social services.

It is interesting to note that this Law accepts the function and participation of civil society groups (*i.a.* NGOs) and individuals providing social services. Furthermore, the definition of social service institutions includes all institutions delivering social services regardless of the type of ownership and the area of economic activity as well as individuals. Non-governmental institution delivering social services on a professional basis must be licensed, which raises disputes among the NGO social services providers whether existing state institutions have sufficient experience of provision of support to the victims of trafficking in order to be able to assess licence applications.

While trafficked persons are not explicitly listed among the beneficiaries under this Law, they may fall under any of the relevant categories.

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[46] Law 'On Social Services', No 966-IV of 19 June 2003.

[47] According to the Law on Social Services these include legal, economic, psychological, educational, medical, rehabilitation and other services.

Pursuant to the Law, the key types of social services comprise material aid (in cash or in kind) and social assistance[48]. Aside the procedure for obtaining social services, the Law also lists in Article 10 the fundamental rights of beneficiaries (*e.g.* respectful and compassionate treatment by social services providers; discretionary choice of social services providers and the form of social service to be provided; receipt of information on his/her rights, responsibilities and service delivery procedure; accept or refuse social service; claim confidentiality of personal information shared with social services providers; protection of his/her rights and interest through legal proceedings).

The Law prescribes co-operation of all entities involved in the provision of social services including governmental and non-governmental institutions as well as individuals, but fails to specify co-operation structures. Furthermore, it enables non-governmental institutions providing social services to obtain funds from the government on a competitive basis. In this case formalised agreements are to be set up.[49]

Law on Social Work with Children and Youth[50]

The Law on Social Work with Children and Youth describes the organisational and legal basis for social work with children and youth. It determines *i.a.* the key principles of social work with children and youth. In particular, the Law stipulates the institutional aspects of social work with this target group, establishes main principles of such activity and the fundamentals of the state policy in the sphere of social work with children and youth. Article 11 of the Law establishes specific activities in the sphere of social rehabilitation for children and youth, which includes, among others, psychological rehabilitation of children and youth who have suffered from cruelty and violence.

Efforts to develop a comprehensive law on trafficking in human beings

At present, there is no specific law on trafficking in human beings. The MinFYS with the support from the OSCE Project Co-ordinator in Ukraine, however, initiated the process of drafting a comprehensive law on combating trafficking in human beings. The aim is to develop a directly applicable law, which addresses all aspects of human trafficking including identification, provision of assistance and support as well as co-operation mechanisms. Aside from law enforcement agencies, the law should also enable others to identify trafficked persons and the recognition as victims should no longer be dependent on the victim's participation in criminal/court proceedings. According to the MinFYS all identified trafficked persons should benefit from this law.

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[48] Article 5 of the Law describes in more details the different types of social services.
[49] See Article 13 of the Law on Social Services.
[50] Law '*On Social Work with Children and Youth*', No 2558-III of 21 June 2001.

It is expected that the Concept for the draft law will have been developed and approved by the government by mid-2008.

Proposals for changing the CPC

The Supreme Court of Ukraine prepared a draft Law of Ukraine '*On Amending Criminal Procedure Code of Ukraine*' which proposes to improve the status of the victim. It provides for the mandatory participation of a representative of the victim during pre-trial investigation and court consideration of the case. The representative shall be invited or appointed for the victim among the persons who are entitled to perform advocate activity in Ukraine (*i.e.* a professional advocate). The costs involved for the work of the advocate shall be met by the State. In the opinion of the Supreme Court, this would allow the victim to properly protect his/her rights, which had been violated, and to obtain qualified legal assistance, also on the issue of reimbursement of damage caused by the crime as a professional lawyer is able to help preparing and filing the necessary lawsuit in time, as well as to appeal against the decisions on its solution, if necessary.

THE CURRENT SITUATION OF TRAFFICKING IN HUMAN BEINGS IN UKRAINE

VICTIM ASSISTANCE: MAIN FEATURES

Empirical data on the identification, referral and provision of services to the victims of trafficking allows to establish main features of the assistance efforts. A survey of 436 victims of trafficking who had received rehabilitation and reintegration support through local NGOs[51] yielded the following results.

Identification

Almost 70% of trafficked persons were identified by NGOs, and about 37% by law enforcement agencies, most notably oblast departments for combating THB; these numbers also cover the cases when trafficked persons were jointly identified by NGOs and law enforcement agencies – almost 11%. Just under 4% were identified as trafficked persons by others.

Around 80% were informed about the possibility to receive assistance by NGOs, 8% stated that they were informed by IOM. About 20% were informed by law enforcement agencies and approximately 5% by others. These figures include 13% who stated that they received such information from two or more of the above sources.

Referral

About 30% of victims were accompanied to relevant service providers by the NGO representatives. 30% were provided with the information on referral modalities, 12% did not need any referrals. No information is available on the remaining 28%.

Assistance

The large majority of victims claimed that they were satisfied with the assistance they received. Insufficient support was mostly linked to services related to further medical assistance, lack of an attorney or lack of money for starting their own business.

Almost all trafficked persons needed material assistance, and most of them required medical and psychological assistance. Half of them had a need of counselling services, while 40 % of the total required legal assistance. Similarly, approximately 40% were in need of support in seeking employment or education.

In almost all cases, trafficked persons stated that the assistance was rendered by an NGO or/and IOM. Less than 20% said that assistance was also rendered by social authorities, particularly medical institutions (only five persons stated that they received

[51] Data gathered by local anti-trafficking NGOs during July-October 2006 through interviews with 436 trafficked victims who had ended their rehabilitation process by the end of 2005 and compiled by the OSCE PCU under its project 'Assistance to NGOs providing assistance to trafficked victims'. The interviews were conducted in five regions of Ukraine: Chernivtsi, Donetsk, Odesa, Ternopil, and Vinnytsia Oblasts.

assistance from a Department for Family, Youth and Sports or Children's Issues). In Chernivtsi Oblast, the number of persons receiving assistance from the employment centre was noticeably high.

Co-operation with law enforcement agencies

Less than half of the interviewees did not want to co-operate with law enforcement agencies, but no information was available as to the reasons for not co-operating. Most of those who agreed to co-operate with law enforcement claimed that they also received assistance during court proceedings. Such assistance was basically provided by NGOs, including specific assistance of a lawyer/psychologist. 20% stated that they received assistance from law enforcement agencies. Sporadically, assistance was also provided directly by IOM.

IDENTIFICATION OF TRAFFICKED PERSONS

The identification of trafficked persons is a core component in every NRM and this process can take long time due to the complexity of the crime.

In Ukraine, trafficked persons may be identified by law enforcement agencies and social services providers including NGOs[52] .

Two categories of trafficked persons

At present, there are two categories of identified trafficked victims in Ukraine, namely those who are recognised as victims of crime and those who are identified by social services providers.

While law enforcement agencies are assigned by the law to formally recognise a person as a victim of crime (Article 49 of the CPC), social services providers have no such authority. The granting of a special legal status is based on evidence and a respective resolution can only be issued after the criminal case has been filed. If the case is not opened, the trafficked person will not receive this status.[53] Law enforcement agencies emphasised that also foreign nationals can be recognised as victims of crime. However, no special provisions exist for the granting of a reflection period or of short or long-term residence to trafficked persons whose status is illegal.

NGO representatives confirmed that the statement of the victim is sufficient for them to consider her/him a trafficked person. It was repeatedly stated that formal recognition

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[52] In Chernivtsi for instance only 5-7% of the victims identified by the NGO also approach law enforcement agencies.

[53] For details on the granting of this status, see above under 'Main laws in the context of trafficking in human beings'.

by law enforcement is not a prerequisite for obtaining assistance from social services providers.

From a legal point of view, the treatment of a trafficked person may not depend on the formal recognition as a victim. But different administrative practices were observed as to the referral of trafficked persons to social services providers. Even though mostly it was stated that law enforcement agencies refer all trafficked persons – regardless of their legal status – to social services providers, in some instances it was reported that only trafficked persons who had been recognised as victims of crime are being referred. Thus, trafficked persons may meet with an obstacle to access social services.

Models of identification by social authorities and NGOs

Different models of identification by social services providers exist and are functioning well, thus contacts with trafficked persons are established through a variety of activities. However, a range of tools are not yet utilised for the identification of trafficked persons; they may well be placed to contribute to the process of identification if developed further within the support system and if relevant staff have the skills to identify victims.

A few stakeholders use questionnaires for the interviews with trafficked person[54], while others do not keep records on the particulars of the statements.

Hotlines

A series of hotlines for victims of different crimes, including trafficking in human beings, are operating throughout Ukraine[55]. Hotlines are usually an effective means to identify trafficked persons. According to La Strada-Ukraine, the largest number of calls for help come through the hotline from the victims or their relatives and friends.

Counselling Services

Anti-trafficking NGOs offering counselling services and accommodation may be directly approached by the victims or presumed trafficked persons are referred to

[54] *E.g.* La Strada-Ukraine, IOM, NGOs funded by IOM.

[55] For details see *i.a.* International Women's Rights Center 'La Strada–Ukraine', 'Operation of the Hotline for Prevention of Human Trafficking', Kyiv 2006; see also http://www.un.org.ua/en/news/2008-02-13/ and IOM in Belarus, Moldova and Ukraine Newsletter, Issue No 16, 2007 which refers to the establishment of a toll-free counter-trafficking short number – 527 – by IOM and three leading mobile phone operators in Ukraine in April 2007. This short number 'routes all calls to a free IOM service providing information on the current realities and dangers facing migrants abroad, including human trafficking and the consequences of irregular entry and stay in foreign countries'. Since the launch of the number, IOM's hotline has received around 7,000 calls via «527».

the institution. Equally, social authorities, particularly in oblasts where no anti-trafficking NGOs are active, may be engaged in providing counselling services to presumed trafficked persons. In some areas, drop-in centres have been established to provide counselling services to presumed trafficked persons and referral to advanced services.

Internet

While the majority of trafficked persons or their relatives/friends contacts La Strada-Ukraine through the hotline, the NGO observed that meanwhile an increasing number is using the website for this purpose.[56]

Campaigns

The representative of the NGO School of Equal Opportunities stated that trafficked persons are often identified during inter-active campaigns. Also relatives or friends of presumed trafficked persons inform the NGO about missing persons. This information is then passed on to the IOM referral structure.

Forum theatre

According to the NGO School of Equal Opportunities the model of the forum theatre[57] may be utilized as a tool to help victims identifying themselves as trafficked persons. The forum theatre works closely with lawyers, doctors and psychologists who can assist victims during this process.

Outreach work

Some representatives of the Services for Children Affairs reported that outreach work is being used to identify street and homeless children, to build trust with them, to provide information on support services and to encourage them to re-socialization. No specific identification procedures for trafficked minors are applied yet due to lack of skills. Therefore, only very, very few children had been identified so far by social authorities. At present, Services for Children Affairs would usually inform the Department for Combating THB in case a minor was identified as trafficked.

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[56] For details see International Women's Rights Center 'La Strada-Ukraine', Annual Report, 2006.

[57] The main objective of the Forum Theatre is to provide information and help each person to develop the skills of resolving an existing problem drawing on expertise of other people as well as the capacity of his/her own emotional intelligence. For details see School of Equal Opportunities/British Council Ukraine, Forum Theatre: A Tool for Finding Solutions when Working in Crisis Situations, Kyiv 2007.

Social Services Centres

In some regions, trafficked persons may approach the Centre of Social Services for Family, Children and Youth for assistance either directly or through referral by other service providers. The Centres of Social Services for Family, Children and Youth however do not conduct an identification procedure, hence they would not know if the person had been trafficked. Any person requesting assistance is only asked about her/his problems and if there are any signs that the person had been subject to violence s/he is considered a victim of violence. Respondents experienced that before a person is ready to reveal all her/his experiences confidence has to be gained, subsequently it is usually a lengthy process. It was also noted that the number of persons seeking assistance has increased after the local television channel broadcasted TV spots with information on human trafficking.

Local Employment Centres

The ILO pilot project to develop co-operation among employment centres, NGOs, training and financial institutions to promote vocational training, job placement and small business opportunities for women who are actual and potential victims of trafficking is being successfully implemented in the Chernivtsi Oblast. The identification of beneficiaries under this project (*i.e.* women who are 'actual or potential victims of trafficking') was jointly carried out by the local anti-trafficking NGO Suchasnyk and the Oblast Employment Centre. The staff of the latter was sensitized to the needs of the target group and trained on how to work with them. Specific co-operation and referral procedures between the involved institutions have been put in place as well. It is expected that similar mechanisms can be established in all regions. The overall aim of the project is to prevent and reduce trafficking in women in Ukraine. Also in other regions, such as Khmelnytskyi Oblast, employees of the Oblast Employment Centre already attended anti-trafficking trainings and are acquainted on how to work with trafficked persons. The experiences of the different oblasts served as basis for the development of the chapter on measures to combat trafficking in human beings, which is part of the Unified Technology of Rendering Social Services to the Population.

Educational institutions

In some cases, trafficked persons may be identified by school psychologists and psychologists at vocational educational institutions, if they are trained accordingly. More attention needs to be paid to the strengthening of their involvement in the identification process.

Screening of incoming deportees

Many trafficked persons return to Ukraine after being deported from the destination country, where they would not be identified as a victim of trafficking. Being a seaport, Odesa is

confronted with a large number of incoming deportees including both Ukrainian and non-Ukrainian citizens. The State Border Guard Service usually receives the lists of persons who are deported from Istanbul to Odesa by ship. This list is being shared with the oblast Department for Combating THB, with the oblast Department for Family and Youth and with the NGO *Public Movement 'Faith, Hope, Love'*. Trafficked persons are being referred by law enforcement agencies to the NGO, which conducts an initial interview with them at the port[58] . During this interview, the trafficked person receives information on the work of the NGO, on the support services for reintegration in Ukraine and on the anti-trafficking hotline 157 in Turkey, so that the interviewee can also inform other persons in Turkey, who may be in need of protection and assistance.

The NGO representative attends the port twice a week when the ships from Turkey arrive. At the beginning, the number of deportees was high, which made it almost impossible to identify all trafficked persons. The numbers have decreased subsequently.

The Centre of Social Services for Family, Children and Youth in Odesa Oblast contacts all Ukrainian deportees either at their homes or by telephone to find out if they wish to be enrolled in one of the social programmes. Specific questionnaires are being used for this purpose.

Identification practices within the law enforcement authorities

The MOI Department for Combating THB and its oblast Departments may identify trafficked persons through police raids, interviews with deportees or during investigations. The police may also receive information on presumed trafficked persons from the Security Service, State Border Guard Service, social service authorities, Ukrainian diplomatic missions, NGOs or through the MOI hotline[59] , which is operating every Monday and Friday between 17:00 and 20:00. This hotline was established in March 2006 for victims of trafficking in human beings or any persons who wish to provide information on presumed victims, but also to advise persons who plan to seek jobs abroad or whenever immediate help is needed. Information on presumed trafficked persons is obtained through personal contacts of individual law enforcement officials, too. Another means to identify trafficked persons is through investigations initiated based on the analysis of advertisements and internet monitoring.

As to the identification procedures within law enforcement, Article 149 of the CC is applied as basis for the identification of trafficked persons. With the revision of the CC in 2006,

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[58] The Odesa Seaport Police Department provides the interview premises for the NGO in the building of the Seaport of Odesa. As to the referral procedure, see below under 'Screening at border points'.

[59] According to the MOI Department for Combating THB the hotline is regularly advertised in the media as well as on the MOI website.

the law now considers both internal and international human trafficking. But several law enforcement representatives complained about the vague phrasing of Article 149 of the CC as it leaves a couple of questions open and any guidelines for the interpretation of this provision are currently missing.[60]

According to the MOI Department for Combating THB, the decision to recognize a victim under Article 49 of the CPC is made by the staff of investigation units on the basis of the person's testimony. Therefore, making a complaint is considered an important element for opening a case and, subsequently, for the official recognition of a person as victim of crime.

According to the Department of the Security Service of Ukraine in Odesa Oblast, all trafficked persons who are non-Ukrainian citizens are usually referred to the local NGO and if such persons disclose the names of the traffickers, relevant information is forwarded to the security agencies in their country of origin.[61]

Screening at border crossing points

At the seaport

Law enforcement agencies in Odesa usually receive the list of deportees from Turkey in advance. The names of women who are deported because of prostitution are marked by the Turkish authorities. An official of the Department of the Security Service of Ukraine meets with the deportees and talks to them. Presumed trafficked persons are referred to the oblast Department for Combating THB. If both the security service and the police agree that the person was trafficked, they refer her/him to the NGO Public Movement Faith, Hope, Love. The following day, the NGO informs the police if the person is ready to be interviewed. Most victims are not registered in Odesa. If they wish to testify, the information will be forwarded to the respective Oblast Department of the Security Service. Among the deportees, there are also trafficked persons who had been rescued in Turkey, but apparently were not officially identified as a trafficked person by the Turkish authorities.

At the airport

The State Border Guard Service usually refers presumed trafficked persons to the Department for Combating THB in the relevant oblast. In some instances, they also

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[60] See also Inna Shvab, Issues of Pre-Trial and Judicial Investigations into Human Trafficking Cases: An Analysis of Selected Cases, Kyiv 2007, p. 38, which in some instances still applies to the new Article 149 of the CC.

[61] For further details on the subsequent process see below under 'Return procedures – Repatriation and social inclusion'.

notify social services providers accordingly. For example, officials of the South Regional Department of the State Border Guard Service first establish contact with deportees. The presumed trafficked persons are referred to the Oblast Department for Combating THB for further interviews. If the trafficked person agrees, the information about the traffickers and about the victim's readiness to testify will be forwarded to law enforcement agencies in the home town/village. Thus, law enforcement may identify additional trafficked persons. In case the trafficked person is a non-Ukrainian citizen, the information will be passed on to law enforcement agencies in the country of origin. In general, the State Border Guard Service documents any criminal offence that it identifies and forwards the information to the police. Also presumed victims are always referred to the police. If the police cannot be reached, victims will normally be referred to an anti-trafficking NGO, if existent in the oblast. Important non-verbal indicators for identifying presumed victims of trafficking at the border are allegedly the clothing and behaviour of the victim.

The representative of the South Regional Department of the State Border Guard Service pointed out that at the stage of departure from Ukraine border officials usually suspect who might be trafficked but there are little chances to convince the potential victims to reveal any information to the authorities. Even if the person is willing to disclose her/his situation, no criminal procedure can be initiated as the testimony of the potential victim is not sufficient.

An example was given by the respondent of the State Border Guard Service involving a female trafficker who could be identified because her frequent travels abroad attracted attention as she was always accompanying young girls. On the basis of the passenger lists and the trafficker's confession, the victims could be identified by the State Border Guard Service.

The Western Regional Department of the State Border Guard Service of Ukraine closely co-operates with other law enforcement agencies and sometimes also with social authorities. In the Lviv Oblast, for instance, presumed trafficked persons are referred to the oblast Department for Combating THB. This Department is also notified in suspicious cases involving the transport of children. In the Zakarpattya Oblast, the Border Guard Service informs both the oblast Department for Combating THB and the oblast Department for Youth and Sports in suspicious cases involving the transportation of children.

Caseload

Most national stakeholders, particularly from governmental institutions, referred to cases of human trafficking for the purpose of sexual exploitation. It appears that little priority is still given to the labour dimensions of trafficking or other forms of

exploitation and to trafficking in minors, though statistics show that the numbers are increasing.[62]

Reports by social services providers

Most stakeholders confirmed that the large majority of trafficking cases is related to sexual exploitation of women. Persons who were subjected to labour exploitation are rarely identified, though the numbers allegedly are increasing. The same applies to male victims of trafficking. Also the Services for Children Affairs refer to very low numbers of identified trafficked minors. Social authorities generally reported that victims are usually not identified as trafficked persons but rather as persons who had been (sexually) abused. This is one of the reasons why no official trafficking statistics exist at national level aside from those of the MOI.

Likewise, the Centre of Social Services for Family, Children and Youth in the Odesa Oblast noted that the large majority of in-coming deportees are women who were subject to sexual exploitation. In a few cases, it was reported that they worked illegally abroad and that they were underpaid.

Among those deportees who were identified by the local NGO in Odesa as trafficked persons, none had been previously identified as victims of trafficking in Turkey (destination country).

Reports by law enforcement agencies

While before 2007 cases of trafficking were related almost exclusively to sexual exploitation, the issue of trafficking for labour exploitation is now getting more attention in most oblasts. Law enforcement agencies reported that so far only a few cases related to labour exploitation were brought to court and resulted in conviction of the traffickers. It was argued that local courts often lack experience with this form of exploitation. In general, there have been very few cases investigated regarding trafficked children or men.

In the Odesa Oblast, for instance, reference was made to one case of labour exploitation involving one man and six girls. They attended a dancing school in Ukraine and then travelled as tourists to Turkey where they worked as strip dancers on a ship. When they refused to provide sexual services, they were forced to work as concierge at daytime and

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[62] According to IOM statistics the number of victims of labour exploitation is increasing, *e.g.* in 2005 IOM assisted 232 victims of labour exploitation while in 2006 the number increased to 319, and during the first six months of 2007 already 200 victims of labour exploitation were assisted. Concerning trafficking in minors, IOM statistics show that already during the first six months of 2007, 41 trafficked minors received assistance through IOM Ukraine, while in 2005 it was 39 minors and 50 minors in 2006.

as strip dancers at night without being paid. Since they did not hold sailor passports, they could not leave the ship. One of the dancers managed to escape and informed the police. The police confiscated the ship and investigations started in Turkey. After having given their testimony, the victims were deported from Turkey to Ukraine.

Among the deportees entering Ukraine, there are very few identified trafficked persons who are non-Ukraine citizens. In those cases which were reported, they mainly originate from Moldova and Uzbekistan.

One case of a Russian woman was identified by the Department for Combating THB in Chernihiv. She was trafficked to the United Arab Emirates and then deported from Turkey to Ukraine. Prior to her return to Russia, she was assisted by the police.

According to the State Border Guard Service, citizens of Moldova often come to Ukraine to work in the construction business (without proper permit for employment). They are not being paid and traffickers usually take away their passports. After some time, the traffickers call the police, who would then initiate the deportation of the workers. Thus such persons will never get paid. Due to the lack of evidence, such cases had never been brought to court.

Over the past three years, a few cases of re-trafficking were identified.

Trafficking in children[63]

Several respondents expressed concern over trafficking in minors, which seems to become an increasing problem in Ukraine. Apparently, they already make up more than 10% of the total caseload since victims become constantly younger. The main problem is that trafficked children mostly do not identify themselves as such. Social services providers confirmed that orphans or children who are left without parental care (*e.g.* when both parents work abroad) are most likely to be at risk of exploitation and trafficking. If people working with children at educational institutions (*e.g.* teachers, school psychologist) were more sensitized on human trafficking issues and also received appropriate training they would be in a position to help identifying trafficked children. At present, however, they are not involved in the identification process. Also, Services for Minors/Services for Children's Affairs hardly identify trafficked children. They mostly lack the skills to actively participate in identification procedures.[64] Moreover, special procedures for the rapid identification of child victims of trafficking as well as efficient referral mechanisms for child victims are not established. Here and there, temporary

[63] For the purposes of this report a child means any person below the age of 18.

[64] The Odesa Service for Children for instance referred to one specific case of the year 2005 involving five orphans (girls aged 16-17) who were recruited by an orphan at the boarding school for sexual exploitation in Moldova.

solutions are in place. Given these deficiencies, the special needs of trafficked children can hardly be addressed at present.

Conversely, the representative of the Security Service of Ukraine pointed out that the legislation protects children from external trafficking because no minor can depart from Ukraine without prior consent of both parents. This consent must be notarized and shown at the border.

Some stakeholders spoke of non-official statistics according to which a number of children adopted in Ukraine by foreign citizens never crossed the border. However, the legal framework does not ensure that there is a follow-up on the well-being of children after the adoption.

Internal trafficking in Ukraine

Several stakeholders expressed concern about the growing number of victims who had been internally trafficked[65] . In practise apparently little attention is being paid to internal trafficking despite the change of legislation. The Government still lacks experience in this area and insufficient information is available to obtain an overview on the scope of the problem.

Statistics

There is no uniform consolidated statistics on the numbers and profile of trafficked persons in Ukraine. The law enforcement have the official statistics on the victims of human trafficking they register as part of investigation of reported crimes, but this does not include those who were not documented. IOM and national service providers maintain their own (separate) databases of those whom they assisted; as the criteria and purposes for data collection are different, not all of them would be registered in the MOI statistics.

According to the MOI Department for Combating THB, 446 victims of human trafficking, including 39 children were identified and returned to Ukraine in 2005. In 2006, 393 victims of human trafficking, including 52 children, were identified and returned to Ukraine and the total of 337 victims of human trafficking, including 52 children, were identified and returned to Ukraine during the first nine months of 2007. The statistics show an increase of children among the identified trafficked persons.

In October 2007, 600 cases were under investigation in Ukraine by the Department for Combating THB including all of the oblast departments. Since 1998, some 2,000 crimes

[65] According to IOM statistics, assistance was provided to 17 persons in 2006 and to 29 during the first nine months of 2007. A total of 6 children were reportedly trafficked as minors in 2006, while during the first nine months of 2007 the number increased to 12.

related to trafficking in human beings have been documented by the Ukrainian law enforcement agencies.

Looking at the IOM statistics on the provision of assistance to trafficked persons, the main destination countries appear to be Russia[66], Turkey[67], Poland[68], Czech Republic[69], Italy[70] and United Arab Emirates[71]. In total, 937 persons received assistance in 2006 and 847 persons were provided with assistance during the first nine months of 2007. A total of 50 trafficked children were returned in 2006 and 41 children came back during the first nine months of 2007, mainly from Russia, Turkey, and the United Arab Emirates.

Between 2001 and October 2007, the NGO *Public Movement Faith, Hope, Love* in Odesa identified 725 trafficked persons, of whom 275 came from Ukraine, 382 from Moldova, 22 from Kyrgyzstan, 7 from Kazakhstan, 19 from Uzbekistan, 16 from Russia, 3 from Belarus, and 1 from Georgia. While 148 persons were identified in 2005, the number decreased to 94 (including 4 children) in 2006. During the first 10 months of 2007, 69 trafficked persons were identified. These figures refer basically to trafficked persons among incoming deportees.[72]

Obstacles to identification procedures

National stakeholders reported that problems in identifying trafficked persons are related to the fact that victims frequently do not wish to disclose their situation because of fear of reprisal from perpetrators, mistrust towards authorities and the judicial system, or because they are afraid of being stigmatised upon return to their home town/village if their case becomes public. In some instances, these reasons are linked to disregard for/poor handling of the principle of confidentiality (*e.g.* at court procedures but also in connection with the provision of social services by the State[73]). Furthermore, it was noted that victims often are not aware of their rights or believe that they will not gain any advantage if identified. Social services providers also stated that victims, in particular children, often do not or are unable to identify themselves as victims of trafficking. But so far, little has been done to address this problem.

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[66] 293 in 2006 and 277 during the first nine months in 2007.
[67] 154 in 2006 and 95 during the first nine months in 2007.
[68] 175 in 2006 and 123 during the first nine months in 2007.
[69] 72 in 2006 and 91 during the first nine months in 2007.
[70] 27 in 2006 and 29 during the first nine months in 2007.
[71] 75 in 2006 and 76 during the first nine months in 2007.
[72] Numbers on in-coming deportees are only partly available. According to the Odesa Oblast Department for Combating THB, 656 persons were deported to Ukraine during the first six months in 2006, of whom 119 women and 4 men were from Ukraine, 399 women and 100 men from Moldova, 15 women and 1 man from Russia, 3 women and 1 man from Belarus, 7 women and 1 man from Uzbekistan, and 6 women from Kyrgyzstan. The figures for 2007 are apparently similar.
[73] This problem was observed *i.a.* by the Department for Family and Youth in Odesa.

The representative of the MOI Department for Combating THB pointed out that the police differentiate three categories of prostitution, namely voluntary prostitution, forced prostitution and trafficking for the purpose of sexual abuse.

While prostitution is no longer a criminal offence following the amendment made to the CC in 2006[74] , administrative provisions against prostitution are still applicable and victims of trafficking who were subject to sexual exploitation may fear that they are used against them if they report their case to the authorities.

Another factor for not reaching the target group is the lack of qualified experts. In some instances, training activities focusing on human trafficking issues are offered by international institutions. However, little or no professional in-house training on human trafficking is being provided to staff dealing with presumed trafficked persons[75] . This applies to government actors, both law enforcement agencies and social services providers including *i.a.* officials of Social Services for Family, Children and Youth, Employment Centres, Departments for Education and Science, Departments of Labour and Social Protection and Services for Children Affairs at oblast and local level. The state labour inspection for instance is tasked to supervise the proper implementation of the Labour Code. If they receive relevant training, labour inspectors may well be in a position to identify trafficked persons. Another aspect of this problem is the high turnover among the staff in different governmental agencies at all levels.

Furthermore, some officials argued that their participation in identification procedures is not within their official terms of reference.

CO-OPERATION

The State Programme of Combating Trafficking in Human Beings for the Period Until 2010 recognises the need for consolidation of anti-trafficking efforts of governmental bodies at central and local levels, as well as of NGOs and IOs.[76]

At regional level, it was often argued that the Regional Programmes form the basis for the co-operation and that therefore no 'additional' formalised agreements are needed. In

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[74] See Law 'On Amending Criminal Code of Ukraine with Regard to Improvement of Liability for Human Trafficking and Coercive Engagement in Prostitution', No 3316-IV of 12 January 2006

[75] See also Inna Shvab, Issues of Pre-Trial and Judicial Investigations into Human Trafficking Cases: An Analysis of Selected Cases, Kyiv 2007, Kyiv 2007, pp 45-46.

[76] One of the goals and aims of the State Programme is 'to co-operate with non-governmental and international organizations and foundations that are engaged in activities related to combating trafficking in human beings.' As to the expected results it is stipulated that the implementation of the State Programme will contribute to the 'Enhancement of professional knowledge and skills of experts within central and local bodies of executive power that are engaged in anti-trafficking activities by organizing the trainings for governmental officials and representatives of non-governmental organizations'.

general, Regional Programmes propose that measures shall be taken to strengthen and develop co-operation.

Co-operation within Ukraine

At central level

The tasks of the Inter-Agency Council on the Issues of Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings, which was set up in September 2007, include the consideration of issues requiring inter-disciplinary co-ordinated co-operation on combating trafficking, and in particular – search, return and rehabilitation of the victims of trafficking[77]. The MinFYS was tasked to assume the co-ordination function in the field of combating trafficking in human beings, hence it co-operates with the main stakeholders. The Expert Working Group, which is under the auspices of the MinFYS, was *i.a.* set up to co-ordinate the implementation of measures determined in the State Programme.

The Ministry of Foreign Affairs of Ukraine (hereinafter MFA) closely co-operates with NGOs including the National Council of Ukrainian Women, La Strada-Ukraine and Caritas, and at international level *i.a.* with IOM, OSCE, the Council of Europe, Europol, the Council of Baltic States[78]. In 2005 the MFA has signed a co-operation agreement on combating trafficking in human beings with IOM.

The main co-operation partners of the MOI Department for Combating THB at the national level are NGOs, the MinFYS and the MFA. According to the MOI Department for Combating THB trafficked persons are referred to IOM and anti-trafficking NGOs. The co-operation with the MFA is based on an agreement on co-operation concerning the identification of trafficked persons according to which the MFA notifies the MOI on Ukrainian citizens who had been trafficked abroad. Furthermore, co-operation in the field of combating trafficking in human beings exists also with the Ministry of Labour and Social Policy of Ukraine, the Administration of the State Border Guard Service of Ukraine, the Security Service of Ukraine, the General Prosecutor's Office of Ukraine, and the Supreme Court of Ukraine.

The Security Service of Ukraine has not signed any formalised agreements related to trafficking in human beings. Close co-operation in this field takes place particularly with La Strada-Ukraine and IOM[79].

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[77] Cabinet of Ministers of Ukraine, Decree No 1087 of 5 September 2007 'On the Consultative and Advisory Bodies for the Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings'

[78] Ukraine holds an observer status.

[79] IOM reportedly responds quickly to information requests concerning persons in 'slavery-like' situations, which is very much appreciated by law enforcement agencies.

La Strada-Ukraine has concluded agreements with the MinFYS and the Ministry of Education and Science on the prevention of trafficking in human being. A co-operation agreement with the MOI on trafficked children is currently under negotiation. Concerning the provision of support and assistance to trafficked persons, La Strada-Ukraine works closely with the Departments for Combating THB and with state and non-state social services providers. Close co-operation is also maintained with IOs.

The Ministry of Labour and Social Policy of Ukraine and the State Employment Centre closely co-operate with IOs and with Ukrainian NGOs, for instance, in the field of counselling activities related to labour migration and in the field of co-operation between regional Employment Centres and NGOs, as well as training and financial institutions.[80]

At regional level

In principle, regional co-operation among key stakeholders takes place *i.a.* within the Regional Councils on combating trafficking in human beings. Alike at central level, the oblast Departments for Family, Youth and Sports were tasked to ensure the co-ordination of activities to combat trafficking in human beings at oblast level. For this purpose Regional Councils were set up.

Due to the lack of a national model provision on the mode of operation, the quality and functioning of co-operation mechanisms differ from oblast to oblast. This also applies to the composition of the Regional Councils. Furthermore, not in all oblasts these inter-agency bodies are operational. As a consequence, multiple partnerships evolved in the regions, which led to the existence of different patterns.

Formalised co-operation agreements clarifying the roles of the main Ukrainian stakeholders in relation to the work with trafficked persons and determining the co-operation structures between governmental and non-governmental actors are often not in place. To some extent, agreements between NGOs and social authorities concerning the provision of certain services do exist, though in most cases they do not exclusively or specifically refer to the work with trafficked persons, but rather focus on preventive measures or generally address the needs of vulnerable categories of persons/individuals in difficult life circumstances, hence trafficked persons may fall under these categories.[81]

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[80] See *e.g.,* the ILO project to promote vocational training, job placement and small business opportunities for actual and potential victims of trafficking; see also Tripartite agreement between Trade Unions, Employers Associations and the Government.

[81] This relates, for instance, to agreements between Centres for Social and Psychological Assistance and NGOs, such as in Chernihiv Oblast, where the Centre for Social and Psychological Assistance has signed a co-operation agreement with the NGO Aratta. In Kharkiv Oblast for instance the NGO Women's Community has partner agreements *i.a.* with the Centre for Social Services for Family, Children and Youth, the Department for Family and Youth and the Department of Education. Also in Lviv Oblast, the Centre for Social Services for

As far as the mechanism of co-operation among state institutions is concerned, both social authorities and law enforcement agencies allegedly closely co-operate internally, as well as with each other, either on the basis of formalised agreements or in accordance with internal directives[82] or upon individual request. As to the co-operation between social services providers it was reported that in many instances social authorities write support letters in case assistance from another institution is required.

Co-operation between social services providers and law enforcement agencies

In the oblasts where anti-trafficking NGOs are operational, state authorities usually co-operate closely with the NGOs. In particular as concerns the co-operation between law enforcement and IOM supported NGOs, referral procedures have been increasingly established to ensure that trafficked persons gain access to support services. In Odesa, for instance, all trafficked persons are referred by law enforcement agencies to the NGO Public Movement Faith, Hope, Love[83] . Similarly, law enforcement agencies in Chernivtsi Oblast refer victims of trafficking to the NGO Suchasnyk. In Lviv, all stakeholders refer trafficked persons to the NGO Women's Perspectives. Upon identification by the NGO, they are admitted to the NGO shelter. In Donetsk Oblast, the Department for Combating THB usually refers trafficking cases to the NGO League of Business Women, which may refer them further to the shelter. In Khmelnytskyi Oblast, the Department for Combating THB as well as the Employment Centre refers victims of trafficking to Caritas.

Family, Children and Youth has concluded co-operation agreements with the NGOs Salus and Women's Perspectives. Equally, in Chernivtsi the Centre for Social Services for Family, Children and Youth works with the local NGO on the basis of a written agreement. Another example is Donetsk Oblast, where the Department for Family and Youth has signed a co-operation agreement with the NGO League of Business Women. Very good working relations have been established between the Centre for Social and Psychological Assistance in Khmelnytskyi Oblast and Caritas. Based on a co-operation agreement with the Centre, Caritas refers all its clients to the Centre. In Kyiv, the City State Administration has signed a co-operation agreement with La Strada-Ukraine. And in Chernihiv Oblast, the Women's Union of Ukraine refers trafficked persons to the oblast Centre for Social Services for Family, Children and Youth on the basis of a Memorandum of Understanding (MoU) between the two institutions, which also includes provisions related to the funding of training for volunteers who are active in prevention activities and who work with jobless women.

82 For instance, according to the State Border Guard Service, formalised co-operation exists with the oblast Department for Combating THB in Odesa. This co-operation, which involves *i.a.* the development of joint operation plans, is apparently based on instructions issued at central level by the MOI and the State Border Guard Service to combat trafficking in human beings. It is annually renewed.

83 After the initial interview, trafficked persons are immediately transferred to the support services operated by the NGO Public Movement Faith, Hope, Love. The NGO then informs the police when the trafficked person is prepared for the in-depth interview.

In some oblasts, the Departments for Combating THB directly refer trafficked persons to IOM.[84]

While the referral of trafficked persons to IOM is based on an agreement between the MOI and IOM, no formalized agreements regulating the above procedures could be identified between the Departments for Combating THB and NGOs in any of the oblasts covered in this study. In some instances, it was argued that such linkages are stipulated implicitly for the NGOs that are IOM's implementing partners and therefore the co-operation between the NGO and IOM is based on a written agreement, while the IOM has an agreement with the MOI covering same areas of co-operation.

Trafficked persons who wish to file a complaint are referred to the police. Occasionally, social authorities also inform law enforcement agencies if there is any suspicion concerning trafficking in human beings or any form of violence.

In some areas, co-operation between law enforcement agencies and social authorities is carried out on a regular basis; for instance, in relation to trafficked children co-operation exists particularly between Services for Minors/Services for Children and the Departments of the MOI, or in Odesa where the law enforcement agencies share the lists of incoming deportees not only with the local NGO, but also with the Department for Family and Youth. Certain partnerships do not necessarily refer to activities targeting particularly trafficked persons but may still be of relevance in this context. For instance, Oblast Departments of Labour and Social Policy closely co-operate with regional Departments for Combating THB particularly in the framework of the commission for monitoring licensed companies. Another example is in Chernihiv Oblast where an agreement on the work with families in crises situations was signed between the Centre of Social Services for Family, Children and Youth and the Oblast Department of the MOI.

Co-operation among social services providers

The scope and quality of co-operation among social services providers varies according to oblast and subject area. In many cases, social authorities and NGOs refer trafficked persons to other State institutions for the provision of specialized services.[85] The fact that a person has been trafficked, however, is often not being communicated or not even known because social authorities usually do not identify a person as trafficked but as persons in need of assistance and many times trafficked persons do not wish to reveal

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[84] For instance, in Chernihiv Oblast trafficked persons are directly referred by the police to the IOM medical rehabilitation centre in Kyiv.

[85] For instance, the Department of Health Care in the Khmelnytskyi Oblast refers victims of trafficking to the oblast Centre for Social Services for Family, Children and Youth. In Chernihiv Oblast, the Women's Union of Ukraine refers trafficked persons to the Centre for Social Services for Family, Children and Youth; Kyiv City Department for Family and Youth and NGOs refer trafficked persons to the Centre for Social Services for Family, Children and Youth.

their experiences to the authorities. Therefore, the overall co-operative approach to combat trafficking in human beings is frequently not explicitly established.

In relation to medical and psychological care for trafficked persons, NGOs often co-operate with the oblast Departments of Health Care and their health care institutions[86], the Centres of Social Services for Family, Children and Youth or/and with La Strada-Ukraine, though many persons are referred to the IOM rehabilitation centre. In some instances partnership agreements with local institutions have been signed.[87]

Oblast Departments for Family, Youth and Sports, Centres for Social Services for the Family, Children and Youth and Centres of Social and Psychological Assistance generally co-operate with the oblast Departments of Health Care and their institutions.

Not specifically on trafficking issues but in general, the Services for Minors/Services for Children usually co-operate closely with the oblast Departments for Education and educational institutions, the oblast Departments of Health Care and medical institutions and with NGOs.[88] In some oblasts, agreements exist between the Centre of Social and Psychological Assistance and the Department for Education and its institutions.

In most oblasts, NGOs and social authorities co-operate with the Oblast Employment Centres. In Chernihiv Oblast, for instance, a formalised agreement exists between the Oblast Centre of Social and Psychological Assistance and the Oblast Employment Centre. Other institutions co-operate with the Employment Centres on the basis of internal directives (*e.g.* some Oblast Centres of the State Social Service for Family, Children and Youth). Various respondents, such as representatives from oblast Departments for Family and Youth claimed that their co-operation with the respective oblast Employment Centre is based on individual requests.

In a number of oblasts, the co-operation between NGOs and Employment Centres has been developed for referral of trafficked persons to the services provided by Employment Centres. In Chernivtsi Oblast, for instance, the ILO pilot project is intended to test a co-operation mechanism involving the Oblast Employment Centre, the NGO Suchasnyk, as well as training and financial institutions. In Lviv Oblast, co-operation in the field of

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[86] Respondents often claimed that the co-operation with public health care institutions is often problematic as they lack funding.

[87] For instance, in Lviv Oblast the Charitable Foundation 'Salus' has reached a co-operation agreement with the Lviv Medical Center 'Astar' (on receiving medical-diagnostic services), which is a private scientific medical-diagnostic centre.

[88] In Odesa, for instance, the Service for Children closely co-operates with the NGOs Road to Home and the NGO Light House. The latter runs an anti-crisis shelter for children. Or in Khmelnytskyi Oblast the Service for Children has signed agreements with NGOs, notably 'Caritas', 'Bethany' and with the NGO 'Union of Guardians of Orphans and Children Deprived of the Parental Care'.

employment is based on an inter-institutional agreement on '*Partnership for Promoting Employment*' between the Oblast Employment Centre, the Association of Employers, NGOs and others. In Khmelnytskyi Oblast, the Employment Centre runs a joint project with Caritas called '*Consultative Centre for Women-THB Victims*'.

Due to the fact that at regional level only a few stakeholders may get involved in the return procedures, there is limited co-operation in this regard. NGOs mostly work with IOM or La Strada-Ukraine in this field, especially in relation to the return of non-Ukrainian trafficked persons to their country of origin. In some cases, agreements may be reached on specific issues, such as the agreement between the NGO Public Movement Faith, Hope, Love in Odesa and the German organisation "*Jadwiga"* concerning the return of trafficked persons from Germany to Ukraine.

Other fields of co-operation

With regard to training activities, many respondents from regional authorities stated that they closely co-operate with IOs and La Strada-Ukraine, and also to some extent with local NGOs.

Different patterns of co-operation also exist in the sphere of preventing trafficking in human beings. To name a few examples: in Chernihiv Oblast, the Department for Combating THB co-operates with social services providers primarily on prevention.[89] In Donetsk Oblast, it is envisaged to set up an NGO Coalition involving some 23 NGOs within the Donetsk region to deal with prevention of human trafficking. Also, in Khmelnytskyi Oblast, the Department for Family, Youth and Sports co-operates with the law enforcement agencies, Caritas, and the NGO *Association of Women in Business* predominantly in the field of prevention of human trafficking.

On the issue of funding, the Departments for Family and Youth co-operate with the Main Finance Departments.

General considerations

Both the State Programme and the Regional Programmes form the basis of any co-operation agreement in the sphere of combating trafficking in human beings. They allow for substantial flexibility in the handling of the referral.

The respondents of the MinFYS confirmed that at present there is no formalised referral mechanism nationwide in place. For the most part, multidisciplinary co-operation between various governmental and non-governmental actors specifically related to trafficked persons is based on informal arrangements or takes place within the scope of general agreements,

[89] The Department does not refer trafficked persons to the shelters of social authorities.

which do not necessarily single out trafficking issues, and depends on personal contacts. co-operation agreements between state and non-state actors regulating the referral of trafficked persons to ensure immediate treatment of victims are to a large extent not formalised. Nevertheless, in oblasts where anti-trafficking NGOs are operational referrals between law enforcement and NGOs are usually functioning well, also because of the personal commitment of staff on both sides.

Co-operation between governmental and non-governmental stakeholders should be based on a clear delineation of responsibilities, roles and capacities within the NRM, as well as transparency.[90] This may be achieved *i.a.* through the creation of co-operation agreements.

In order to ensure long-term sustainability, it is important to progressively engage national institutions. This constitutes a key element for all IOs in any exit strategy. Bearing this in mind, formalised agreements between state institutions and IOs may not substitute agreements between the competent national/regional institutions.

Co-operation among NGOs

Co-operation among NGOs involved in various aspects of combating trafficking in human beings takes place within the well-developed NGO network enabling a regular exchange of information and experiences on an individual basis. The NGO network is very much supported by IOs, notably IOM and OSCE, as well as by La Strada-Ukraine[91]. At the same time, no formalised co-ordination body is in place.

Co-operation with international institutions

The activities of IOs in Ukraine are usually based on formalised agreements with the Government of Ukraine[92]. co-operation between IOs and national partners exists in different fields related to the combating trafficking in human beings (*e.g.* prevention, training, procurement of material, support and assistance to trafficked persons, NGO networking). For example, the agreement between the MOI and IOM, signed in 2005, covers a number of areas, including the prevention and combating of trafficking in human beings, especially women and children; migration management; facilitation of voluntary return of Ukrainian victims of trafficking from abroad; collecting, use and dissemination

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[90] See OSCE/ODIHR, National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook, Warsaw, 2004, p. 28 concerning principles and best practices for the implementation of NRMs.

[91] *E.g.,* upon the initiative of La Strada-International a platform was organised in 2006 in Kyiv involving NGOs from the countries in the region and from Ukraine.

[92] The OSCE for instance has an “umbrella” Memorandum with the Government of Ukraine, which is the formal legal basis for the OSCE PCU’s activities. Similarly, IOM has concluded agreements with the Cabinet of Ministers, which are of importance particularly in terms of establishing IOM’s presence and functioning in Ukraine.

of information related to migration; joint organisation of conferences, seminars, other technical co-operation activities on migration; trainings on combating trafficking in human beings and illegal migration for the officials and those undergoing training of the internal affairs agencies[93] . The agreement between the Administration of the State Border Guard Service and IOM of 2005 refers to issues such as prevention and combating illegal migration and trafficking in human beings, especially women and children; and combating the transnational organised crime.

Specific agreements may be signed with relevant stakeholders in relation to the provision of funds or material assistance, transfer/procurement of materials, etc. Training and other similar activities implemented by the OSCE for instance, would normally be based on the exchange of formal letter(s) with relevant governmental institution.[94] Furthermore, IOs are also involved in the work of the Expert Working Group on the Issues of Prevention of Domestic Violence and Combating Trafficking in Human Beings. Likewise, co-operation among IOs takes place in various fields[95] , though some representatives claimed that a better harmonisation of activities would be necessary.

Cross-border co-operation

As far as national stakeholders are concerned, it is the law enforcement agencies, the MFA, and La Strada-Ukraine that are mainly involved in cross-border co-operation. Local anti-trafficking NGO have very limited co-operation established with anti-trafficking institutions abroad, primarily because presently they do not play a key role in the return procedures. This also applies to the MinFYS's role in cross-border co-operation.

The MOI, notably the Departments for Combating THB, apparently co-operate well with Interpol, Regional Centre for Combating Trans-Border Crime of the Southeast European Co-operative Initiative (SECI), Europol, International Law Enforcement initiatives within GUAM Organisation, and the law enforcement agencies in destination countries. This co-operation also includes bi- and multilateral investigations and to dismantling trafficking channels.

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93 co-operation with IOM takes place *i.a.* within the framework of the IOM project on the provision of technical assistance. IOM provides support and assistance including assistance in the field of prosecution and witness support. The IOM Project 'ZERO' with Czech law enforcement agencies includes joint investigations, combating trafficking channels and the completion of pending investigation cases.

94 MOI co-operates with the OSCE *i.a.* within the project on translation services of trafficking cases investigation materials provided to the MOI by foreign law enforcement agencies. The OSCE also provides a wide range of training for prosecutors, judges, police, other governmental agencies and NGOs.

95 *E.g.,* between ILO and IOM (joint workshops), ILO and OSCE (prevention activities in boarding schools and in orphanages; provision of skills in job search).

Specific co-operation agreements[96] have been concluded with a number of countries[97]. In case the perpetrators are abroad, these legal agreements are being used for pre-trial investigations in order to be able to produce admissible evidence.[98] Representatives of law enforcement agencies, however, stated that they also utilise informal channels to get information because of the lengthy procedures involved to obtain information from law enforcement agencies abroad through formal mechanisms and given the fact that according to the national legislation all actions have to be completed within certain time periods[99]. co-operation with IOM proved very useful in this context since they have missions in numerous countries but also because IOM tend to respond promptly to requests.

Also the Security Service of Ukraine co-operates with security services and other law enforcement agencies abroad, as well as with Interpol and individual countries[100], though in many areas co-operation could be improved.

For La Strada-Ukraine, the MFA and its diplomatic missions abroad, as well as NGOs in the destination countries and countries of origin, are important partners in relation to their activities in the field of searching and returning trafficked persons to Ukraine or to the countries of origin, respectively. La Strada-Ukraine is also a member of the *Global Alliance Against Traffic in Women*.

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96 According to the MOI Department for Combating THB, Ukraine has co-operation agreements on combating human trafficking with some 20 countries.

97 In the case of Turkey, for instance, an Additional Protocol on the Implementation of Article 1 of the Agreement Between the Government of Ukraine and the Government of the Republic of Turkey on co-operation in Combating Crime was signed on 7 June 2005 by the two Ministers of the Interior. The co-operation between the States shall be aimed at building the national legal infrastructures and other relevant administrative and institutional measures for combating trafficking in human beings. It shall also facilitate the provision of humanitarian, psychological and medical support for trafficked persons, as well as ensure the protection of the victims and prosecution of the perpetrators.

98 Between 2004 and 2008, 56 requests for the provision of legal assistance in connection with crimes related to trafficking in human beings were forwarded by the Ukrainian authorities to other States. 15 of which were forwarded to the Republic of Turkey, but only 7 were apparently attended so far. According to the General Prosecutor's Office of Ukraine, the law enforcement agencies in Turkey usually take 4 months to 2 years to deal with requests for the provision of legal assistance from Ukrainian investigation agencies, and this negatively affects not only investigations, but also court procedures in Ukraine.

99 For instance, Article 120 of the CPC prescribes a two-month period within which pre-trial investigation into criminal cases must be concluded.

100 Closer co-operation exists *i.a.* with CIS countries and EU countries (*e.g.* at Odesa Oblast level with Luxembourg and Belgium).

SUPPORT AND PROTECTION SERVICES

Provision of assistance services by the State

Provision of specialized assistance and social services for the trafficked persons barely involves the network of social authorities. Since victims of trafficking do not fall into a distinct category of beneficiaries, representatives of the social authorities who were interviewed in the course of this study could not recall many cases of trafficked persons who made use of their services. Nevertheless, representatives of oblast Departments for Family and Youth and the Centres of Social Services for Family, Children and Youth emphasised that in principle trafficked persons may draw on their services (*e.g.* social assistance, legal and psychosocial counselling) including specific programmes. Many of these programmes can be attended anonymously and trafficked persons do not have to be recognised by the law enforcement authorities as victims of crime and participate in the criminal process if they wish to be enrolled in any of such support programmes.

Social authorities offer specialized services for trafficked persons on ad-hoc basis. In Kyiv, for instance, the City Centre of Social Services for Family, Children and Youth operates Drop-In-Centres that provide counselling services to presumed trafficked persons in every district of the city. Experts are even specifically trained to work with victims of trafficking. However, in 2007 there were no referrals from other institutions and also no trafficked persons revealed their circumstances. Similarly, the Services for Minors/Services for Children's Affairs usually do not come across identified trafficked minors though it is assumed that some are among the street and at-risk children.[101]

One of the main problem of the social authorities is related to the limited financial resources of the State to cover the costs involved for the provision of adequate assistance. Many representatives of social authorities claimed that due to the lack of necessary funding they can hardly meet the needs of vulnerable persons in general, and those of trafficked persons in particular. The Government does not directly fund shelters or medical and psychological care specifically for trafficked persons, but supports anti-trafficking NGOs by providing a few shelters with subsidized facilities and in-kind support[102] . According to the current legislation, NGOs cannot directly apply for State funding.

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[101] For instance in Chernihiv Oblast a drop-in centre for street and at-risk children and youth was established in 2006. It is a pilot project, which is funded by the World Childhood Foundation and implemented by the NGO Doctors of the World in partnership with the MinFYS and the Service for Minors. The project will last until 2009 and will then be financed by the local budget. It started with a series of trainings. Since the opening of the centre in April 2007 some 100 children received assistance of whom only two needed shelter and were referred to the shelter for children. But no case of an identified trafficked minor is known.

[102] For instance in the Chernivtsi Oblast the City Council provided the premises for the rehabilitation centre for trafficked persons, which is being operated by the NGO Suchasnyk.

Another problem for not being capable to properly address the needs of trafficked persons may be related to the frequent turnover of staff within State authorities, hence training activities need to be reinforced to maintain and develop the expertise.

Upon the MinFYS's initiative, 20 anti-crisis centres were set up in the regions to address the needs of families in crises, but many of them are not active. In 14 regions, shelters were established aside the anti-crises centres. These centres and shelters may also be used to help trafficked persons; however, only a very few cases have been referred to the centres and the shelters so far, according to the MinFYS.[103]

In a number of cases, the reasons for not utilizing these services may also be linked to the lack of skills of the staff of social authorities at regional/local level to identify trafficked persons and their needs.

The Law on Social Services does not explicitly refer to the provision of specialized care for trafficked persons and combating trafficking is not within the official terms of reference of state institutions offering social services, hence these agencies cannot single out victims of trafficking from the rest of the clients and attend to their special needs.

Furthermore, it was noted that trafficked persons often do not wish to be assisted by the local social services as they are afraid of being identified as trafficked and then being stigmatized in their home town/village.[104] In oblasts where anti-trafficking NGOs are operational, respondents stated that trafficked persons usually prefer to be assisted by an NGO because they consider these services more confidential.

Provision of assistance services by internationally funded NGOs or directly by IOs

The current regime of providing assistance to trafficked persons in Ukraine is mainly funded by the international community, particularly by IOM. According to IOM, almost 95% of all assistance programmes addressing the needs of trafficked persons in Ukraine are financed by IOM[105]. IOM supports some 80 civil society and faith-based organizations of which 27 NGOs are directly assisted by the organisation. Thus, a well-developed network of anti-trafficking NGOs providing a wide range of assistance

[103] For instance in Chernihiv ten cases of trafficked persons are reportedly registered with the Department for Combating THB at present but none has applied for social assistance with the centre.

[104] See also Anette Brunovskis, Rebecca Surtees, Leaving the past behind? When victims of trafficking decline assistance, Fafo-report 2007:40.

[105] Between 2000 and 2007, more than 4000 persons were directly assisted by IOM Ukraine (either directly or through partner NGOs). While in 2001 some 65% benefited from this assistance, in 2006 almost 90% were successfully dealt with under this regime, and according to IOM only 0,4% have been re-trafficked.

and support to trafficked persons including *i.a.* vocational training, social, psycho-social, medical, legal counselling/help, support in dealing with authorities, is in place. In certain oblasts, NGOs also operate rehabilitation centres for trafficked persons, which offer shelter. It is obvious that anti-trafficking NGOs play a key role in the provision of support and protection services, though some NGO representatives stated that without IOM's financial support they would not be able to maintain the same level and scope of services. Thus, the sustainability of their services to a large extent depends on IOs, notably IOM and other donors, as, at present, most of the funding for these services comes from there.

Of particular importance is also the IOM-funded medical rehabilitation centre for trafficked persons in Kyiv, where trafficked persons can receive special medical and psychological assistance. Because of its uniqueness for Ukraine, trafficked persons from all over the country may be referred to this centre.

A lot was also done to ensure that NGO staff and consultants are well trained to deal with trafficked persons. Among others, La Strada-Ukraine – as a national actor – plays an important role in the provision of training and information material.

Representatives from law enforcement agencies stated that they mostly refer trafficked persons either to IOM's Kyiv medical rehabilitation centre or to one of the six rehabilitation centres for trafficked persons in the oblasts run by NGOs.[106] Hence, a referral mechanism between law enforcement agencies and the above mentioned assistance regime is in place, with little or no involvement of public social authorities.

Drawing from the interviews with representatives of law enforcement agencies, different practices appear to be applied by the police as to the criteria for referral. While some stated that a person is only referred to one of the shelters if she/he files a complaint, others said that they refer all presumed trafficked persons.

Overview on practices and experiences related to the provision of certain services

Most service providers do not keep special focus on separate circumstances of different categories of victims; hence, the practices described below apply to trafficked persons in general, unless specifically indicated. Bearing in mind that social authorities usually do not maintain trafficking statistics, the only data available in this context is the IOM statistics, which refer to the provision of assistance within the IOM programmes.[107]

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[106] For details, see '*Shelters'* below.

[107] For instance, during the first six months of 2007, 200 victims of labour exploitation (103 female and 97 male) received assistance within the IOM programme.

Shelters

Specialized shelters for trafficked persons

In June 2003, the *Model Provision on Centre for the Rehabilitation of Trafficked Persons* was adopted by the Government.[108] It provides a model on how such centres may be set up by regional authorities. This includes *i.a.* a description of functions (*e.g.* psychological and legal services; primary medical examination for further referral to specialized treatment; accommodation of trafficked persons in the centre, which should be no longer than three months; the development of rehabilitation programmes; reintegration assistance; distribution of information on the activities of the centre), the appointment and tasks of the Director of the Centre and the involvement of specialists (*e.g.* lawyers, psychologists, doctors). It also refers to the importance of co-operating with relevant institutions and organisations as well as to possible sources for financing the centre.

This Model Provision establishes the possibility for the public authorities to set up rehabilitation centres for trafficked persons and allows allocating public funding for such purposes, provided there is such initiative. However, it does not commit any central governmental funding. Neither does it obligate any of the authorities (at any level) to actually set up such centres.

Rehabilitation centres for trafficked persons were established in Chernivtsi, Kherson, Lutsk, Lviv, Odesa, and Zhytomyr. Another centre is expected to be opened soon in Luhansk. They are run by anti-trafficking NGOs.[109] While IOM and other donors provide the funding for these shelters in a large part, local authorities would normally be involved in ensuring that adequate premises are allocated. In some instances, they may also complement some of the running costs.

NGOs operating the shelters offer a variety of services including *i.a.* social, medical, psychological and legal counselling and assistance, vocational training, support in job-seeking. In Odesa, for instance, the NGO Public Movement Faith, Hope, Love runs two shelters[110] of which one is for trafficked persons who return to Ukraine. It provides shelter

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[108] The Cabinet of Ministers of Ukraine, Decree No. 987 of 27 June 2003 'On the Approval of the Model Regulation on the Rehabilitation Centre for Persons who Suffered from Trafficking in Human Beings'.

[109] In Lutsk, the Sofia Rehabilitation Centre is run by the NGO Volyn Perspectives. In Zhytomyr, the NGO Women's Information and Consultation Centre operates the *Yevhenia* Reintegration Centre. The Transit and Reintegration Centre in Kherson is run by the NGO Successful Woman and the NGO Suchasnyk runs the *Nadiya* Reintegration Centre in Chernivtsi. Information about the centres in Odesa and Lviv can be found below.

[110] The centre 'Assol' is partly funded by IOM and provides mainly first aid to returned trafficked persons; at the same time, any trafficked person reporting directly to the centre can also receive assistance. The premises for the Assol centre were made available by the Odesa city authorities. In 2003, a transit centre providing transit accommodation for foreign citizens

for eight persons. The other one is a transit centre for trafficked persons who are non-Ukrainian citizens. In Lviv, the *Oaza Centre for Adaptation and Protection*, which is run by the NGO Women's Perspectives, comprises a shelter which can accommodate six women and one child. If needed, the NGO may also rent a flat for male victims, which is then being funded by IOM.

The IOM medical rehabilitation centre for victims of trafficking in Kyiv is a medical institution providing comprehensive and specialized medical care, including psychological assistance on a confidential basis. The centre was opened in 2002 and was refitted to accommodate minors as well.

Shelters for persons in crisis

The Centres for Social and Psychological Assistance accommodate persons who find themselves in difficult life situations; hence they could also be used by trafficked persons. The Centres usually provide psychological, legal and social counselling and assistance as well as safety, education and vocational training, assistance in finding employment and support in dealing with authorities and in obtaining necessary documents. Persons can stay in the shelter for a period of up to three months. Such period of time is expected to be sufficient to complete the rehabilitation. This basically boils down to the finding of employment and housing. In the exceptional cases, the stay may be prolonged. Each shelter usually has an internal code of conduct, which describes the rights and obligations of the clients. In many cases, clients who wish to be accommodated in the shelter have to sign an agreement with the Centre, which outlines the obligations of the client and of the Centre.

In general, these shelters are funded by the regional authorities. Their capacities vary from oblast to oblast, but often they are not used. In most oblasts only very few trafficked persons have been accommodated in these shelters so far. For instance, in Chernihiv Oblast up to 15 female and male victims of violence between the age of 18 and 35 can stay in such shelter. But up to now, no victims of trafficking were referred to the Centre or directly

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was opened with the help of IOM. Also the premises for the transit centre were made available by the Odesa city authorities. It was reported that the transit centre will soon be closed and the Assol centre may then also be used for foreigners. With the support of the German GTZ, a new centre is now being established, which may substitute both, the Assol centre and the transit centre for foreigners. It will provide accommodation for some 20 persons, who may stay for a maximum period of three months. The centre will only be available for women. The decision to admit a person to the centre will be made by the NGO together with IOM. If required, flats will be rented for men. Any person who staying at the centre will have to sign a contract which outlines the rights and responsibilities as well as the house rules. The issue of funding for operation of the new centre, however, is not yet solved as the GTZ funds are provided for the renovation of the building only, hence many questions such as security arrangements, are still open.

approached it. In Odesa Oblast, the Centre can provide housing to 24 persons between the age of 18 and 35. But again, until now no identified trafficked persons have been accommodated in the shelter, though some may have been among the persons who were admitted to the Centre. The statistics of the Centre do not single out trafficked persons but only persons in crisis who received assistance. In Kyiv, the Centre of Social-Medical Rehabilitation is attached to the Kyiv City Centre for Social and Psychological Assistance, which provides shelter for up to 30 women and children from Kyiv. However, no trafficked persons were identified among the beneficiaries as yet. In Chernivtsi Oblast, simply one or two cases of trafficking were accommodated in the shelter so far. In Lviv Oblast, only persons with residence registration in Lviv and Lviv Oblast are admitted to the Centre for Social and Psychological Assistance. Until now, one trafficked person was accommodated. Exceptional efforts to assist trafficked persons are made by the Centre for Social and Psychological Assistance in the Khmelnytskyi Oblast. It provides accommodation for up to 10 women and men and offers a wide range of services for trafficked persons, such as assistance in obtaining relevant documents and a social status, support in dealing with state authorities and in finding employment, legal and psychological aid. Victims of trafficking usually receive information about the Centre from the district, city, town, and village centres of social services for family, children, and the youth, central executive authorities, local self-governance authorities, NGOs Caritas, Myloserdya, and others.

Besides, other centres such as the Centres of Mother and Child, which is for women between the seventh month of pregnancy until the child is one and a half years old, may also be used by trafficked persons though no information is available in this regard.

Shelters for Minors

The MinFYS established a national network of shelters for minors, which provide social protection and accommodation. No information is however available on the proportion of trafficked minors among the beneficiaries because, for the most part, they have not been identified as victims of trafficking.

Respondents generally confirmed that, in principle, trafficked children can be referred to specialized facilities for children or come on their own initiative. However, no interviewees could recall a single such case so far. The shelters for children provide accommodation for a maximum period of three months and offer different services such as medical, psychological, legal assistance (including assistance in receiving social status), social services, and others. In the centres for social-psychological rehabilitation of children, children can stay for up to nine months. However, the accommodation can only take place upon the parents' consent given the importance of co-operation among social workers, children, and parents in order to get the child back to normal life. If a child originates from a different oblast, the authorities in the respective oblast are usually contacted. If the child is a non-Ukraine citizen, the MFA is apparently notified.

Legal counselling/aid

In the oblasts where anti-trafficking NGOs are operational, lawyers working with the NGOs usually provide legal counselling services and support in court procedures. The counselling services basically include information on the rights of trafficked persons. Victims are informed of the NGO's duty of confidentiality as regards the victim's statement. In order to establish trust, the lawyers frequently work closely with psychologists. The lawyer may also accompany victims of trafficking to hearings at the court[111] . The Ukrainian legislation allows for the provision of legal and moral support by lawyers during the interview with law enforcement agencies. Therefore, normally both the lawyer and the psychologist of the NGO are permitted to attend the interview upon request of the victim. However, in some instances law enforcement agencies forbid lawyers or any confidant to be present during the interview with the victim as in their opinion only authorized attorneys are allowed to attend the interview.

In some oblasts, particularly where no anti-trafficking NGOs are active, the Centres of Social Services for Family, Children and Youth may inform the trafficked person about the possibility to report their case to the police and legal advisors of the Centres may provide legal assistance and support to trafficked victims at courts.

Medical and psychological assistance

A large number of trafficked persons benefit from the services provided at the IOM medical rehabilitation centre in Kyiv or are assisted by NGOs in getting medical and/or psychological counselling and treatment. Anti-trafficking NGOs often work directly with medical doctors to ensure that medical needs are being properly addressed. In some instances, NGOs also have specialized psychologists or offer specialized health services.[112]

In case NGOs cannot address the needs of trafficked persons, La Strada-Ukraine[113] or IOM[114] may be requested to provide medical and psychological care. Both IOM and La Strada-Ukraine assess the case prior to the provision of assistance.

Only very few trafficked persons approach directly the medical institutions for help, though no statistics on trafficked persons who had received medical treatment are kept with the

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[111] If required, IOM may fund specialized lawyers representing the trafficked person at court.

[112] For instance, within the programme of the crisis centre the Charitable Foundation 'Salus' in Lviv oblast provides medical-diagnostic and psychological assistance to trafficked persons. Special cards required for referral to Salus are available at NGOs (*e.g.* Women's Perspectives, Woman to Woman, Caritas), and authorities, notably the Centres of Social Services, and the police. The services offered by the special medical-diagnostic centre operated by Salus are available to women and children only.

[113] La Strada-Ukraine, for instance, may either cover the costs for medicine or provide them directly.

[114] The victims may as well be referred to the IOM medical rehabilitation centre in Kyiv.

health authorities. Respondents also believed that many victims may not reveal their experience to the authorities. In general, no formalised referral of trafficked persons to health services exists. It was said that at present assistance to trafficked victims is rendered like to any other person who falls under the category of vulnerable persons and in principle everybody has a right to access free medical services.[115] During the interview, a regional health care official however stressed that due to limited funds most costs involved have to be met by the patient. Moreover, some respondents believe that apart from financial constraints one main deficiency of the public health system is that it does not naturally include psychological care.

Doctors at hospitals often have to refer patients to anti-crises centre or to centres for social and psychological assistance hence they cannot follow-up on their well-being. Although rehabilitation care includes medical and psychological assistance, in most regions it is being provided in psychiatric institutions only. The respondent at the Ministry of Health Care also confirmed that often for these reasons trafficked persons are understandably reluctant to make use of these services.

In May 2007, the Ministry of Health Care of Ukraine approved by its Decree No. 238 measures to be taken concerning the implementation of the new State Programme. But the measures refer solely to those activities in the appendix to the State Programme, where the participation of the Ministry of Health Care is prescribed.[116] The decree does not contain any measures or concrete guidance concerning the provision of medical

[115] See Article 49 of the Constitution of Ukraine.

[116] Ministry of Health Care of Ukraine, Order No 238 of 11 May 2007 'On the Approval of Measures of the Ministry of Health Care of Ukraine Concerning the Implementation of the State Programme on Combating Trafficking in Human Beings for the Period Until 2010'. These measures include the analysis of legislative acts on combating trafficking in human beings and where necessary the submission of proposals for amendments to the MinFYS and to the Ukrainian Institute of Public Health of the Ministry of Health; the monitoring of national legislative acts in view of international law on combating trafficking in human beings and the submission of proposals for amendments; the reporting to the Inter-Agency Council concerning measures taken by the Ministry of Health and the respective health institutions/departments in the regions including information on measures to combat trafficking in human beings. Furthermore, the decree prescribes the development and adoption of relevant regional measures and an obligation to report to the Ukrainian Institute of Public Health of the Ministry of Health on the implementation progress of these measures twice a year. Heads of the structural divisions of the Ministry of Health, directors of the Ukrainian Institute of Public Health of the Ministry of Health and of the Ukrainian Scientific-Research Institute of the Social and Legal Psychiatry and Narcology of the Ministry of Health are tasked to ensure the organization and timely implementation of the measures and to inform the Ukrainian Institute of Public Health of the Ministry of Health of Ukraine accordingly on a biannual basis. The Director of the Ukrainian Institute of Public Health of the Ministry of Health is charged with compiling all the information and submitting a summary to the Department of Medical Assistance Development twice a year. The overall responsibility for controlling the implementation of the decree lies with the Deputy Minister.

services to trafficked persons. Based on the Decree of the Ministry of Health Care directives were issued at oblast level[117] . These directives include many important elements, such as the provision of medical assistance and referral to specialized services, the medical supervision of children, particularly of children at risk as well as of respective institutions, and in some instances references are also made to co-operation with other institutions also for the purpose of sharing information on suspected human trafficking activities. No information could however be obtain as to the implementation of these directives, as well as on the monitoring and evaluation of the stipulated measures.

Employment

In many cases, IOM (directly or through implementing partners) pays for vocational training of trafficked persons. To a certain extent, such costs are also covered by La Strada-Ukraine. Anti-trafficking NGOs usually offer educational and vocational training as well as assist victims in finding employment.

Trafficked persons originating from remote places are often reluctant to go back to their home villages due to lack of job opportunities. Therefore, NGOs help them to get vocational training in the shelter and in seeking work.

In general, it was acknowledged that employment centres may play a crucial role not only in the prevention of trafficking in human beings but also in the reintegration process.

The ILO pilot project '*Promotion of vocational training, job-placement and entrepreneurship development by women who are actual and potential victims of trafficking*' aimed at developing and testing the co-operation mechanism of the Chernivtsi Oblast Employment Centre, the NGO Suchasnyk, and training and financial institutions in this area[118] . Within this project, the staff of the employment centres were sensitized to the needs of the target group and trained accordingly. A training module was developed and the experiences formed the basis for the respective chapter of the Unified Technology of Rendering Social Services to Population. The project is supposed to be implemented throughout the country.

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[117] See *e.g.* Directive No 224 of 6 June 2007 'On Approval of the Measures of the Main Department of Health Care of the Chernivtsi Oblast State Administration On Realization of the State Programme on Combating THB till 2010'; or Directive No 185/1 of 14 June 2007 of the Department of Health Care of Khmelnytskyi Oblast State Administration 'On Approval of Regional Measures Concerning Implementation of State Programme of Combating THB till 2010' according to which the provision of medical assistance, including referral to medical psychologists and psychotherapists, and when necessary, to psychiatrists for the purpose of providing psychological help, should be guaranteed and strict compliance with requirements of the Law of Ukraine on Psychiatric Assistance has to be ensured. The Department should also pursue medical supervision of children, especially in underprivileged families.

[118] The official partners of the project were the Oblast Employment Centre, NGO Suchasnyk, the Business-Center, and the PrivatBank.

Experiences and commitments of oblast employment centres to address the specific needs of trafficked persons vary enormously. A number of employment centres made a real effort to ensure that their staff are familiarised with human trafficking issues. For instance, in Khmelnytskyi Oblast, all employees of the Employment Centre participated in the trainings in order to better attend to the needs of trafficked persons. Professional (vocational) consultants working as psychologists within the Employment Centre have been specifically trained on this issue. Likewise, the staff of the Chernivtsi Employment Centre received adequate training to work with victims of trafficking. Also representatives of Donetsk and Lviv Employment Centres mentioned that training activities in the field of combating trafficking in human beings were conducted. Representatives of some employment centres, however, emphasised that in certain areas their work is hindered because of legal gaps. These legal gaps concern the scope and nature of services provided by the State Employment Service to persons under the age of 18, as well as to persons who have not been making contributions to the State Mandatory Social Insurance Fund for Unemployment.

Some of the representatives of employment centres did not consider it important to offer any specialized services/programmes for trafficked persons. It was argued that everybody has access to the services, *i.e.* any person who has particular difficulties to find employment can attend seminars to activate his/her skills and abilities. Furthermore, all job seekers can check the vacancy lists and if needed, they can receive specialized consultation. While general counselling can be received everywhere, access to training programmes is often provided in places of residence only, hence the residence registration system is applicable.

Education

At present, Oblast Departments for Education and Science do not conduct any specialized programmes targeting trafficked persons. Psychologists at schools may help children if needed but no system to attend to the specific needs of trafficked children is in place. The problem of being unable to identify and support trafficked children is also related to the lack of psychologists specialized in the sphere of combating trafficking in human beings and accompanied by budget constraints. In most oblasts under review, it was reported that activities in the field of combating human trafficking are mainly limited to preventive measures. As a rule, such activities take the form of optional training courses or seminars that are offered at schools.[119]

Trafficked persons who are non-Ukrainian citizens

In case of foreigners who enter/stay in Ukraine as regular migrants, Ukrainian legislation stipulates equal treatment for them with the Ukrainian nationals regarding the access to

[119] *E.g.*, in the oblasts of Cherkasy, Chernivtsi, Odesa, Lviv, and Donetsk.

services.[120] At the same time, there are no special provisions in Ukrainian immigration or criminal-procedure legislation that ensure trafficked persons who are non-Ukrainian citizens a preferential treatment vis-a-vis other foreign nationals who are in Ukraine in an irregular migration situation. Since the current legislation does not provide for a special procedure for trafficked persons who are non-Ukrainian citizens, the general procedure applicable to all foreigners is used.

The NGO Public Movement Faith, Hope and Love in Odesa reported that only a few persons did not want to return to their country of origin. In such cases, IOM has to find an alternative solution. The Department for Family and Youth in Odesa confirmed that non-Ukrainian citizens are being referred to the IOM transit centre. In case the person does not wish to return to his/her country of origin, such person falls under the responsibility of the State Service for Migration. It was also stressed that foreign nationals who do not have the legal grounds for stay in Ukraine have no access to the social services programmes provided by the State.

Equally, as regards children the representative of the State Social Service for Family, Children and Youth emphasized that the legal basis does not allow the Centres for Social Services for Family, Children and Youth to extend their services to children who are not Ukrainian nationals.

RETURN PROCEDURES – REPATRIATION AND SOCIAL INCLUSION

Return of trafficked persons to Ukraine

According to the MFA, 272 trafficked persons were assisted to return to Ukraine as of 2006. In some instances, the diplomatic missions of Ukraine abroad provide financial support for the return, though funds are very limited. Their main involvement, however, is related to the issuance of travel documents/certificates for return. These services are not offered to trafficked persons only, but can be utilised by any Ukrainian citizen who is in need of assistance. Usually, the missions have no specialists to deal with trafficked persons. If a trafficking case is identified, the diplomatic mission would inform the law enforcement agencies in Ukraine accordingly.

La Strada-Ukraine[121] and IOM[122] are very much involved in facilitating the return of trafficked persons as they also help to search missing persons abroad. In close co-operation with law enforcement agencies[123] and diplomatic missions of Ukraine abroad, identified trafficked

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[120] See, for example, Article 6 of the Law on Social Services.

[121] La Strada-Ukraine has developed good co-operation with NGOs abroad in the field of searching and returning trafficked persons to Ukraine and organising assistance.

[122] Majority of returns to Ukraine are reported to be organised by IOM in co-operation with the IOM missions abroad.

[123] According to the Department for Combating THB of the MOI, the operative staff of the departments for combating THB, as well as Ukrainian criminal investigators responsible for the cases, conduct a risk assessment prior to return.

persons are assisted by IOM or La Strada-Ukraine to return back to Ukraine. This assistance may include travel costs, immediate medical care and accommodation upon arrival and prior to referral to any of the reintegration programmes.

Only a few anti-trafficking NGOs are actively engaged in the return process. Some may get involved upon request of relatives. This includes assistance in searching trafficked person and in purchasing the tickets, which is financed by IOM. Others may receive trafficked persons at the border and bring them back home or pursue the reintegration process, if the victims wish so. Social authorities seem not to be involved during the return process.

Of particular concern are reports according to which trafficked persons are also deported to Ukraine even if they had been identified as victims in the destination country.[124]

Return of trafficked persons from Ukraine to their country of origin

The Ukrainian legislation does not provide for any special procedures related to the return and reintegration of trafficked persons who are not Ukrainian citizens, hence no risk assessment is being conducted by the authorities. Assistance is exclusively provided to this specific caseload by NGOs through the IOM network or by La Strada-Ukraine. Only sporadically social authorities may help out.[125]

In Odesa, for instance, the NGO Public Movement Faith, Hope, Love informs IOM about all trafficked persons who are not originating from Ukraine. Trafficked persons from Moldova are taken by IOM Moldova from Ukraine to the reception centre in Moldova. If needed, the person is accompanied by a medical doctor or/and a psychologist (provided by IOM Moldova) or any other IOM staff from Moldova. In case the victim is a minor, he/she is accompanied by a State official from Moldova. The NGO Public Movement Faith, Hope, Love emphasized that prior to return a risk assessment is always being conducted.

Persons originating from any other country than Moldova will first be accommodated in the Odesa transit centre and then moved to the IOM rehabilitation centre in Kyiv, if necessary. IOM organises the return by air to her/his country of origin.

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[124] Officials of regional law enforcement agencies referred to deportation practices of the Turkish authorities including also trafficked persons who had testified before the court abroad. Moreover, a regional law enforcement officer in Odesa stated that persons who are supposed to be deported from Turkey but do not have the means to cover the costs for their ticket are often detained until someone pays for the ticket.

[125] For instance, the Chernihiv Oblast Centre of Social and Psychological Assistance reported that one woman from Moldova was temporarily accommodated prior to return because she had to wait for the issuance of her passport.

ACCESS TO JUSTICE (INCLUDING VICTIM-WITNESS PROTECTION AND COMPENSATION)

An NRM should include *i.a.* the creation of appropriate mechanisms to harmonize victim assistance with investigative and prosecutorial efforts.

Since the introduction of criminal liability for human trafficking in March 1998, 1,990 such crimes have been detected according to the main Department for Combating THB.[126] The General Prosecutor's Office of Ukraine reported that the majority of cases are submitted to the court and that only in a few instances pre-trial investigations have to be discontinued.

The Supreme Court of Ukraine has been collecting the verdicts on cases related to trafficking in human beings tried in Ukrainian courts of all levels for the purpose of conducting an assessment of the case law. Based on the findings, a resolution is currently being drafted[127], which will include a summary of court practice, and will present recommendations for the judiciary and law enforcement agencies (prosecutors and investigators) on the conducting procedures related to human trafficking, and provide guidance for interpretation of relevant provisions of the CC and the CPC. However, at the time of this report, the draft resolution is planned to be considered during the Plenary Session of the Supreme Court of Ukraine.

Notion of non-punishment of victims

At present, no provision exists in the CC or the CPC to guarantee that trafficked victims will not be prosecuted for their involvement in unlawful activities, to the extent that they have been compelled to do so. This situation poses as a deterrent for trafficked persons to reveal their situation to the authorities.

General aspects related to the rights of victims

From the legal perspective, a person who is formally recognised as victim of crime holds a strong status in court proceedings as s/he is enjoying all rights of a party. Additionally, the victim is entitled to be informed on his/her rights,[128] as well as to make use of the right to protection.[129] For instance, with regard to closed court hearings, the CPC does not refer to trafficking cases, so it is up to the judge to assess if they may meet the required criteria.

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[126] In detail: 2 in 1998, 11 in 1999, 42 in 2000, 90 in 2001, 169 in 2002, 289 in 2003, 269 in 2004, 415 in 2005, 376 in 2006, 327 during the last nine months of 2007.

[127] Draft Resolution 'On Practice of Application of Legislation on Combating Human Trafficking or Any Other Illegal Agreements about Human Beings by Courts'.

[128] See Article 53 of the CPC

[129] See Article 52-1 of the CPC

Another problem which hinders trafficked persons to properly make use of their rights is the lack of legal aid. While the law indeed provides for legal representation at court proceedings, no system is in place for the provision of free legal support. Victims mostly cannot afford to pay for a lawyer and are fully dependent on the assistance of charitable institutions. In fact, without a lawyer the victim has little chances to properly participate in the court procedure, though theoretically the law obliges the prosecutor to protect the interests of the victim. Of particular importance is therefore the proposal brought forward by the Supreme Court concerning the mandatory participation of a legal representative of the victim, *i.e.* a professional advocate, during pre-trial investigation and court consideration of the case at the costs of the State.

Security measures for individuals involved in criminal proceedings

The Law on Ensuring Safety of Individuals involved in Criminal Proceedings, as well as Articles 52-1 to 52-5 of the CPC form the legal basis for the entitlement to security protection and the application of safety measures. The Law on Ensuring Safety of Individuals involved in Criminal Proceedings and Article 52-1 of the CPC define the persons who are entitled to the right to the security arrangements. These include *i.a.* individuals who inform a law enforcement agency on a criminal offence or who are otherwise involved in or with the detection, prevention, termination, and exposure of criminal offences; victims or their representatives involved in a criminal case; suspects, defendants, defence counsels and other legal representatives; plaintiffs and their representatives in the lawsuit on compensation of damages inflicted by a criminal offence; witnesses; and members of families and close relatives of individuals listed above provided they are being threatened or exposed to other unlawful actions as participants in criminal proceedings.

In practice, this legal instrument seems not – or at least not often – to be applied in the case of trafficked persons. While the Supreme Court generally confirmed that a request of a witness or a victim concerning security measures will always be respected, no specific case of trafficked persons where such measures had been applied was known. Some representatives of the oblast Departments for Combating THB and of Prosecutor's Offices reported that trafficked persons by and large do not ask for protective measures during court proceedings. It was argued that they usually feel safe in the shelter. Another reason brought forward by respondents for not applying the legal instrument of providing security arrangements for trafficked persons was linked to the fact that due to the lack of funding the Law is not yet fully in use.[130] In a few cases La Strada-Ukraine or regional anti-trafficking NGOs provided special accommodation for security reasons. Likewise, IOM has been able to cover the costs of a safe flat for the victims.

[130] These statements correspond to the findings of other assessments. See *e.g.* Inna Shvab, Issues of Pre-Trial and Judicial Investigations into Human Trafficking Cases: An Analysis of Selected Cases, Kyiv 2007, p 49.

Provision of protection following criminal proceedings

There is no legal provision to ensure protection for trafficked persons following a trial. Therefore, a trafficked person who requires protection after the criminal proceedings has no possibility to benefit from security arrangements provided by the State. At present, NGOs in co-operation with IOM or La Strada-Ukraine often try to meet these protection needs.

Compensation

According to the American Bar Association, the number of crimes detected under Article 149 of the CC decreased over the first six months of 2007 (252 crimes) compared to the same period in 2006. At the same time, investigatory bodies of the MOI filed 44 court cases against 100 persons with indictments in 2007.[131]

Article 29 of the CPC stipulates the obligation of the law enforcement and judiciary to ensure the possibility of a civil claim if there were damages caused by the crime. Same article also envisages arrangements by the law enforcement agencies to ensure the possibility to confiscate the defendants' assets if the charges envisage confiscation as an additional penalty for relevant crime. Law enforcement agencies, however, reported that in most cases traffickers do not have money or property registered in their name, hence confiscation cannot be effectively applied.

According to Article 28 of the CPC, victims or other persons who have suffered material damage may file a civil claim as part of the criminal case investigation (if the person fails to do so at this stage, she/he may still file the civil claim within a civil procedure). After the submission of the request for compensation, the victim is issued a special resolution granting the status of a civil claimant (Article 50 of the CPC). Thus, trafficked persons may have the status of a victim and the status of a civil claimant during the criminal procedure. Law enforcement agencies often stated that during the pre-trial investigations trafficked persons are usually informed about their right to file a compensation claim for damages (moral and material damages) while respondents from other institutions alleged that in most cases the persons are not informed about this possibility. There were also cases reported when the victims' lawyers have not provided proper advice to their clients on this matter, which appears to be a general problem with access to adequate legal aid for victims of trafficking in human beings.

In general, the procedural complexity of the mechanism for recovery of damage often hinders victims of trafficking to exercise their right to compensation.

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[131] For further details, see American Bar Association/Rule of Law Initiative–Ukraine, IOM Ukraine, Asset Confiscation as a Source of Financing Victims Assistance and Combating Human Trafficking in Ukraine, Kyiv 2007, p. 75. No official national statistics were made available at the time of reporting.

It was observed that the reasons for not filing a compensation claim are mainly related to insufficient or no legal aid available to victims, lack of likelihood to receive the compensation or the victims' fear of the perpetrators. Another problem lies with the lengthy court procedures. The present legislation does not yet facilitate faster consideration and resolution of the cases, although efforts have been made in recent years to reduce the duration of case consideration. In the opinion of the Supreme Court, the new draft CPC should continue optimising the terms of case consideration. Namely, the terms of court consideration may be reduced essentially by reforming Chapter 28 of the CPC, which deals with the issue of a sentence. The producing of its motivation part takes most of the time. Based on the experience of other countries, the Supreme Court notes that the Law should stipulate the necessity to produce the motivation part of the sentence only upon request of participants of the proceedings. Reduction of duration of proceedings with regard to pre-trial investigation and court consideration without violating the rights of the participants may be achieved by means of considering the case in court without conducting a pre-trial investigation when evidence of the accusation and defence are submitted directly in court.

Efforts have been made by the Ministry of Justice of Ukraine and within the Parliament to draft a law on compensation to the victims of crime envisaging, in particular, the establishment of a compensation fund for victims of violent crimes to provide a state guarantee for the compensation. However, none of these initiatives have been concluded yet.

The project conducted by the ABA in co-operation with IOM on 'Asset Confiscation as a Source of Financing Victims Assistance and Combating Human Trafficking in Ukraine', which was recently completed, specifically focuses on the possibility of creating a fund for the assistance of trafficked victims or confiscation fund. Such a fund may solve the problems of compensation and assistance for trafficked persons as well as of financing counter trafficking programmes. In short, it should guarantee the victim's right to State assistance. The project proposes concrete measures for improving legislation and the mechanism of compensation as well as in relation to asset confiscation.

Although the setup of such a fund appears to be a rather an economic than a political problem, IOM still believes that within the next two to three years a confiscation fund will be created. Representatives of law enforcement agencies, however, doubt that such a fund can be successfully established because, in practice, the actual assets of traffickers usually cannot be effectively confiscated.

Experiences by different stakeholders

According to the Supreme Court of Ukraine, almost all cases include a civil suit in criminal procedures and compensation is usually granted.

Anti-trafficking NGOs experienced that trafficked persons often refrain from filing a compensation claim, mainly because they are afraid of being known to the public then.[132] Oblast Departments for Combating THB also confirmed that, in practice, the compensation is frequently not being paid.

The representative of the Odesa Oblast Prosecutor's Office, for instance, stressed that the procedure for claiming compensation is very complicated and that no statistics are kept on the numbers of cases filing such a claim.

DATA PROTECTION

The Ukrainian legislation includes a series of provisions, which refer to the protection of data. According to Article 32 of the Constitution of Ukraine, '*collection, storage, use and distribution of confidential information about a person without his/her consent is prohibited, except for cases stipulated by a law, and only in the interests of national security, economic welfare and human rights*'. Article 10 of the Law on Social Services stipulates that one of the fundamental rights of beneficiaries is the right to claim confidentiality of personal information shared with the social services provider. Likewise, the *Decree on the Approval of the Standard Regulation on the Rehabilitation Centre for Persons who Suffered from Trafficking in Human Beings* includes a provision which lays down that information concerning the personal life and other information on trafficked persons that becomes known to the employees of the Rehabilitation Centre is confidential. Also Article 52-3 of the CPC prohibits the disclosure of personal data of a person under protection. Article 6 of the Law on Ensuring Safety of Individuals involved in Criminal Proceedings refers to the rights and obligations of protecting organs and stipulates that the citizens' rights and freedoms shall be respected and that information about security arrangements concerning the person under protection shall be considered classified. Furthermore, security arrangements may include securing confidentiality of information on the person under protection pursuant to Article 15 of the Law. The Law on Information[133] establishes the general legal principles of receiving, using, disseminating, and storing information, affirming the right of the person to information in all spheres of public and political life of Ukraine and the system of information, its sources, determining the status of participants in information relationships, regulating access to information and securing its protection, protecting the person and society from corrupt information. Article 23 in particular explains what is understood under information about a person and stipulates that the collection of personal data without the person's prior consent shall be prohibited, except in cases envisaged by the law. According to the official interpretation of the law, only in a course of

[132] The NGO Public Movement Faith, Hope, Love for instance recalled one case involving a trafficked person who was exploited in Russia, where together with IOM the NGO helped the person to file a civil claim in the criminal case in Russia.

[133] Law 'On Information', No 2657-XII of 2 October 1992.

storage and dissemination of personal data of a disabled/incompetent person, such disabled/incompetent person, each competent member of the family of such person or legal representatives shall have right of access to such information and shall have right to challenge the correctness and reliability etc. of such information.

Handling of personal data in practice

Most State representatives claimed that prior to any transfer of personal data (*e.g.* submission of information to another State authority) they seek consent from the victim. In some instances, law enforcement agencies complained about NGOs refusing to share personal data including statements of trafficked persons without the victim's consent.

Between law enforcement and IOM, however, regular exchange of information appears to take place. In some instances law enforcement agencies may forward personal data to IOM also without the victim's consent. It was argued that the sharing of data is based on mutual trust, usually between individual staff. According to the Security Service of Ukraine, for instance, no formalised agreement with IOM stipulating the handling of such information exists, but whenever such information is given to IOM it is also discussed how to use this information in order to ensure that it is not disclosed outside.

NGOs funded by IOM have to submit to IOM all information on trafficked persons who benefit from the services provided by the NGOs (*i.e.* completed questionnaires and information on actions taken). The NGO Public Movement Faith, Hope, Love specifically referred to the written agreement with IOM, which includes a provision according to which the NGO has to forward the questionnaire to IOM. The consent of the trafficked person to have her/his personal data shared with IOM is always obtained when s/he agrees to enrol in the support programmes.

La Strada-Ukraine stressed that personal data of trafficked persons will only be shared with the outside upon consent of the trafficked persons.

The Department for Youth and Sports in Chernihiv reported that personal data is always handled in the best interest of the clients. For protection purposes personal data is given to the law enforcement agencies, but only on consent of the person concerned.

RECOMMENDATIONS

The following recommendations are based on the findings of the assessment but also consider proposals that were brought forward by key stakeholders. The recommendations mainly address the following points:

1. Strengthening referral procedures, all tailored to the specific Ukrainian context;
2. Possible interventions for strengthening governmental authorities' and NGOs' capacities within the NRM.

Due to the fact that most recommendations concern several different groups of stakeholders, the need of their involvement is indicated by markers in parentheses according to relevance.[134]

Strengthening referral procedures, all tailored to the specific Ukrainian context

General

- To develop a national referral system with clear referral structures in each oblast. Multidisciplinary teams should be established and responsibilities and competencies should be assigned according to different mandates of all actors involved. Regional authorities, in partnership with local NGOs, should be in a position to properly protect the rights and address the needs of trafficked persons within the framework that envisages identification process as part of the protection and support programme. Where no NGO partners are available at oblast level, social authorities should be tasked to provide adequate assistance and support to trafficked persons. The UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking may provide guidance in working out such structures. (G, R, S, C, L, m, i)
- To strengthen the role of regional councils on combating trafficking in human beings so that they can serve as networks, which allow for efficient information

[134] Groups of stakeholders are listed in the order or priority/relevance; also, in case of stakeholders who should take the responsibility for or a leading role in implementing respective provisions, the markers are capitalised, while those who need to be involved to a lesser degree (*e.g.* in a consultative/advisory capacity) are indicated in lower case. Such prioritisation should not be viewed as giving more importance to this or that institution in the system of governance. The markers used in these Recommendations are as follows:

C – civil society organisations, not only anti-trafficking NGOs
G – central government
I – international organisations, donor/development agencies
J – judiciary, at different levels and jurisdictions
L – law enforcement, including the border guard service
M – individual ministries or other governmental agencies/services
P – parliament
R – regional/local authorities
S – social services providers

dissemination and feed-back mechanisms among actors within the referral system. (R, g, s, c)

- To set up an effective referral mechanism for child victims of trafficking, which should be part of the general NRM. When developing procedures and co-operation structures for the protection of the rights of trafficked children, the stakeholders should be guided by the UNICEF Guidelines on the Protection of Child Victims of Trafficking. (G, S, R, C, I, i)
- To adopt policies and specialized programmes to safeguard the rights and interests of trafficked children. Procedures for special protection measures of trafficked children should be incorporated in all components of the NRM, particularly in the identification process, the provision of support and assistance, return and reintegration procedures as well as in relation to access to justice. State Social Service for Family, Children and Youth, the Ministry of Education and Science, as well as the Ministry of Health Care together with the oblast state administrations, notably the Services for Children Affairs should be clearly tasked and actively assume responsibility to properly respond to the needs of trafficked children. (S, M, L, r, g, j)
- To ratify and implement the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention provides a good balance between the protection of human rights of trafficked persons and prosecution of traffickers. The explanatory report to the Convention serves as guidance for the interpretation of different provisions, including the definition of trafficking in human beings, which is identical with the one of the Palermo Protocol. (P, G, c, j, i)
- To lobby for amendments to the Budget legislation so that it contains a clear reference to combating trafficking in human beings, allowing for adequate targeted funding of activities in this field and to strengthen the capacities of governmental and non-governmental actors working with trafficked persons. Therefore, changes should also aim at the provision of opportunities to directly fund NGOs providing assistance to trafficked persons. (G, P, m, c)
- To support the initiative to develop a comprehensive law on combating trafficking in human beings, which should apply to all forms of trafficking in human beings and design a comprehensive framework for the protection of and assistance to trafficked persons and witnesses by addressing all aspects of an NRM to guarantee the protection of the human rights of trafficked persons. (G, P, C, I, j, i)
- To establish a mechanism to monitor and evaluate the human rights impact of laws, policies, activities including programmes and interventions related to trafficking in human beings at central and oblast level. It is acknowledged that the Inter-Agency Council is tasked to initiate an implementation monitoring of state targeted programmes. The importance is to develop a monitoring mechanism which allows for a constant process of improvement of anti-trafficking

measures. Given the crucial role of local NGOs in the field of victim assistance, they should be encouraged to participate in monitoring and evaluating the human rights impact of measures. In order to assess the effectiveness of measures, clear indicators should be developed to better identify the gaps. (G, C, R)

- To increase the capacities of governmental and non-governmental actors working with trafficked persons, so that they can effectively contribute to the NRM structure. This may include increase of qualified personnel to better pursue co-ordination functions, provision of material assistance, availability of in-house training on specific aspects of trafficking in human beings (*e.g.* law enforcement agencies, social services providers, judiciary, MFA). Training programmes should be developed on the basis of identified needs. (G, M, R, C, i)
- To include general aspects of trafficking in human beings into the training and professional development curricula for social workers, medical professionals, police officers, employment/labour sector specialists and pedagogues. (M, G, S, R, c, i)
- To conduct a research on Ukraine as destination country for trafficking in human beings (both in the case of trans-border and domestic trafficking) in order to obtain a clear picture on the dimension and trends of this phenomenon and to allow for the development of appropriate responses. (G, c, i)
- To ensure that the State Programme and Regional Programmes include all main elements, which are important for the implementation and monitoring of programmes, in particular performance indicators and detailed funding information. The Cabinet of Ministers Decree No.106 of 31 January 2007 '*On the Drafting and Implementation of the State Target Programmes*', which is applicable to State Programmes, may also serve as model for the development and implementation of Regional Programmes. (G, R, m, c, i)
- To ensure that each Regional Programme aims at supporting the regional network of actors participating in the referral system. (R, G, c, s, l)

Identification of presumed trafficked persons

- To best expand the identification mechanism in order to enable all target groups to access support services. Bearing in mind that the phenomenon of trafficking in human beings affects women, men and children, various institutions (including law enforcement agencies, social authorities and respective social/health care institutions, educational institutions, the employment sector, labour inspection as well as NGOs) who may establish contacts with presumed trafficked persons should actively participate in the procedures and reach out for the target groups. (G, M, R, S, L, c, i)
- To cover all types of exploitation mentioned as constituents of trafficking in human beings and to consider aspects of both national and trans-national trafficking when developing methods of identifying trafficked persons. In

particular, increased focus need to be made on the labour dimensions of trafficking. (G, L, S, C, m, i)

- To set up a network of informed stakeholders coming in contact with presumed trafficked persons. In order to do so, the terms of references for each institution should be adjusted according to the agreed identification mechanisms. (M, G, S, C, R)
- To sensitise specifically representatives of those stakeholders who may establish contacts with presumed trafficked persons but who have not yet participated in the identification mechanism, such as the personnel of social authorities, educational institutions (including pedagogues and school psychologists), employment centres, and labour experts (including labour inspectors), on the phenomenon of trafficking in human beings and with topic-related facts and train them on how to identify trafficked persons. (M, G, R, S, c, i)
- To ensure that the legal basis for the identification of trafficked persons is clear and understandable in order to avoid conflicting interpretation of legal provisions in the different oblasts or among different stakeholders. The Explanatory Report on the Council of Europe Convention on Action against Trafficking in Human Beings may serve as a good basis for the development of respective guidelines. (G, P, c, i)
- To encourage presumed trafficked victims to reveal their experiences. The identification should rest on the definition of trafficking in human beings while the identification process should be independent of any criminal proceedings against the perpetrators. (S, L, C, g)
- To abolish the administrative provision against prostitution as it demonstrates a barrier for victims to report cases of trafficking to the police. (L, P, j, g)

Co-operation

- To enhance the co-ordination of combating trafficking in human beings through setting up a national authority (*e.g.*, National Anti-trafficking co-ordinator), with the task to plan, co-ordinate, and monitor the implementation of the State's anti-trafficking efforts, and to co-ordinate such activities with the civil society groups and IOs. (G, P, l, s, c, m, i)
- To develop co-operation structures among governmental and non-governmental institutions under the auspices of the NRM, which may include the conclusion of formalised agreements between two or more partners to secure clear division of roles, responsibilities and funding of services. Such structures will strengthen the efforts to harmonise criminal prosecution with protecting the human rights of victims. (G, M, C, S, R)
- To make use of already existing co-operation mechanisms when developing regional co-operation structures within the NRM. (M, R, S, C, g, l)

- To evaluate the existing management of cross-border co-operation among governmental institutions for the purpose of identifying suitable mechanisms and structures to build up. These mechanisms are desperately needed to improve not only the exchange of information but also to identify means to speed up the lengthy procedures, which are currently in place. (G, L, C, i)
- To assist NGOs in their efforts to establish the necessary contacts in the main destination countries and countries of origin in order to facilitate the repatriation and social inclusion of trafficked persons. (G, C, I, s)

Support and protection services

- To guarantee that all trafficked persons have equal access to specialized services (*e.g.* health care, psychological assistance, legal aid, educational and other vocational training, employment assistance) at any stage regardless of their registered place of residence in Ukraine, sex, age, legal status, etc. (G, S, L, C, r, m)
- To apply equal criteria for referral of trafficked persons to social services providers across the country. (S, R, G, M, L, C)
- To develop and maintain a database of available social and other specialized services for trafficked persons in the non-governmental and governmental sector in each oblast. (R, S, C, g)
- To identify counselling centres (drop-in centres) in all oblasts, which provide initial counselling to presumed trafficked persons, assess social, medical and psychological needs and refer trafficked persons further to shelters and/or providers of specialized services, if needed. These counselling centres may be well-placed to maintain the database on available services in each oblast. (S, R, C, g)
- To revise the Law on Social Services so that it also identifies trafficked persons and their immediate family members as a category eligible for being provided with social services. This will allow social authorities to single them out from the rest of clients and provide specialized care. (G, P, S, c)
- To establish support mechanisms in all oblasts for female and male trafficked persons, as well as for trafficked children. (S, G, M, R, C, L)
- To pay special attention to the protection and assistance needs of trafficked children. Protection measures must be based on the four general principles, *i.e.* the best interest of the child, child participation, non-discrimination of children and the right to life and development. (S, L, J, C, r, m, i)
- To remove any legal or other obstacles which prevent social authorities in the oblasts to respond to the specific needs of trafficked persons. This may imply *i.a.* a revision of terms of references so that social service centres, employment centres, educational institutions, health care providers and services for children affairs are able to assume responsibility for protecting the human rights of trafficked persons.(S, R, M, g, c)

- To provide for specific legal provisions which guarantee that trafficked persons who are not Ukrainian nationals receive adequate protection and assistance. This will allow them to have a free choice and make an informed decision on their return and co-operation with the law enforcement authorities. (L, P, g, j, c, i)
- To secure sustainable funding of the services provided by members of the NRM in all oblasts in order to maintain equal quality standards. (G, R, S)
- To ensure timely disbursement of funds for the provision of the protection and assistance services to secure the protection of human rights and interests of trafficked persons. (G, R, p)
- To provide for a legal basis and specific procedures which ensure the protection of trafficked persons not only during but also following a trial. (P, G, l, j)

Return procedures – Repatriation and social inclusion

- To create a mechanism for the return of trafficked Ukrainian citizens in safety and with dignity involving more actively the Ukrainian missions abroad and social services providers in both countries. The overall aim should be to ensure that prior to any return and reintegration measures the risks can be properly assessed and to avoid deportation of trafficked persons. (M, G, S, l, c, i)
- To set up a national procedure for the review of the repatriation and social inclusion of non-Ukrainian trafficked persons in their country of origin. Any return should be based on the victims' willingness and ability to return. This ability should be assessed in view of legal, humanitarian and/or factual reasons, which may no longer guarantee a safe return. The concept of risk assessment should be applied similar to the principle of non-refoulement. (G, L, c, i)
- To ensure that the decision making process on the return is being conducted by both the authorities and the trafficked person so that the return can take place in safety and with dignity. (L, G, j, s, c)
- To build up case teams to assess the risks and to make accessible solid and reliable country of origin information to all actors involved in the risk assessment. The case teams should be composed of representatives of law enforcement authorities and social services providers (preferably, representatives of NGOs), as well as the trafficked persons themselves. Only in such circumstances will the trafficked persons be in a position to make an informed decision for a durable solution. (L, S, C, g)

Access to justice (including compensation and victim / witness protection)

- To secure access of all trafficked persons to proper legal aid free of charge. (P, G, j, l, r)

- To encourage more trafficked persons to reveal their experiences to law enforcement agencies and to testify through ensuring that they are properly informed about their rights and entitlements, including the protection measures. (L, j, s, c)
- To ensure that security arrangements prescribed by law are properly being applied in practice. (L, g, j)
- To secure the victim's right to compensation of material and moral damages as well as for withheld earnings and to guarantee compensation. (G, P, J, I)
- To create a national network of qualified lawyers who provide legal assistance to trafficked persons in order to effectively protect the rights and interests of trafficked persons. (G, C, j, i)
- To support the proposals made by the Supreme Court for a revision of the CPC aiming at simplifying pre-trial investigations and court consideration as well as improving the status of a victim. The latter involves the mandatory participation of a representative of the victim (*i.e.* a professional advocate) during pre-trial investigation and court consideration of the case on public expenses. (P, J, G, I)
- To expedite the completion of the review of court practice in trafficking in human beings cases conducted by the Supreme Court, and to adopt a relevant Resolution of the Plenum of the Supreme Court on this issue, which should help reduce the present confusion among law enforcement agencies and local courts, which has often led to difference in interpretations. (J, I)
- To support the efforts to develop a compensation law, which also considers the establishment of a compensation fund for victims. Such State fund should be used to guarantee the victims' right to compensation and provide them with access to social assistance and social integration. It should not be dependent on international funding but could be funded, at least in part, by confiscated assets of criminal origin. It should form an integral part of a comprehensive framework to ensure that no categories of trafficked persons are being excluded as beneficiaries. (G, P, S, L, j, c,)
- To introduce the legal possibility of not imposing penalties on trafficked persons for their involvement in unlawful activities, to the extent that they have been compelled to do so. (P, j, I)

Data protection

- To store personal data of trafficked persons only if it is deemed absolutely necessary and do so only by those institutions that can be held accountable for securing internationally recognised data protection standards. (G, L, S, C, j, r, m)
- To apply stringent procedures for data sharing in order to safeguard the integrity of personal data of trafficked persons. It should be guaranteed that the processing (compilation, recording, storage, correction, erasure, and transmission) of personal

data is carried out respecting the trafficked persons' right to privacy and always upon consent of such persons, *i.e.* such individual shall have the right to know that information is stored on her/him, to obtain communication of the data relating to her/him recorded in the database and, if necessary, to have it corrected. (G, L, S, J, C, R, m)

- To ensure that any activity related to the collection of personal data has to abide by fundamental principles of confidentiality and data protection standards. (G, L, S, J, C, R, m)
- To ratify the Council of Europe Convention for the Protection of Individuals With regard to Automatic Processing of Personal Data and its Additional Protocol. The Convention is the first binding international instrument protecting the individual against abuses. It provides *i.a.* guarantees in relation to the collection and processing of personal data and in the absence of proper legal safeguards outlaws the automatic processing of sensitive data such as on a person's race, political opinions, health, religion, sexual life, criminal record. (P, g, l)
- To adjust national data protection legislation according to international standards and best practice. This should include *i.a.* the establishment of a mechanism for trafficked persons to access their data and to rectify it. (G, P, j)
- To encourage all actors involved in the collection, storing and processing of personal data on trafficked persons to review their present procedures against the background of the conditions laid down in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Where necessary, measures should be implemented to prevent unauthorised reading, copying, modification or erasure of data recorded in the database during both the direct transmission to or from the database (control of access) and to avoid exposing trafficked persons to potential danger, discrimination and stigmatization as a result of unauthorised disclosure of their personal data. (G, M, R, L, J, s, c)

Possible interventions for strengthening governmental authorities' and NGOs' capacities within the NRM

- To identify funding opportunities for the provision of assistance and support to trafficked persons. The responsibility for the protection of the rights of trafficked persons lies with the Government, thus, it has to make every effort that the costs involved for a well-functioning NRM are met. At present, international funding is being provided in almost all areas of victim assistance. Since international funding is usually temporary, the Government should consider means for increasing national funding capacities in order to guarantee the sustainability of assistance provision.(G, R, c, s, i)
- To develop new and implement already existing training programmes on combating trafficking in human beings for all members of the NRM at central and regional/

local level together with actors who in the past have provided training in this field/ are planning to do so in future, notably international and regional institutions (*e.g.* ILO, OSCE, IOM), as well as NGOs, in order to avoid any duplication or overlapping of activities. These training programmes should take into account the existing knowledge of actors. First and foremost, sensitivity to and basic training on the issue will be needed for actors of institutions who may have contact with presumed trafficked persons but are not specialists in human trafficking matters (*e.g.* staff from the employment/labour sector, educational institutions, state border guard services, Ukrainian embassies/consulates abroad, social services centres, health care institutions, services for children affairs) so that they are capable to identify and refer victims. Besides, immediate training needs have been identified *i.a.* in connection with the identification and treatment of child victims of trafficking. Sensitivity to the rights of trafficked children should be promoted in all areas. (G, M, I, C, I, s)

- To ensure the provision of ongoing training for all actors involved in the identification process and in the provision of support and assistance, preferably in a multidisciplinary manner. Existing professional development programmes should include customised components on addressing the problem of trafficking in human beings. (M, G, S, c, r)
- To guarantee that training activities are effective, hence it is important to minimise the turnover of staff. (M, R, S, L, g)
- To identify international and national financing sources for NGOs participating in the NRM in order to ensure the sustainability of their services. The Government should actively support fund-raising activities of NGOs, as well as facilitate the establishment of contacts with potential donors, including Embassies, the European Union and other regional and international organisations and institutions. Promotion of the involvement of the private sector funding anti-trafficking efforts should be given special attention as a potential source of funding. (G, R, C, I, s)
- To provide training for NGOs on how to raise funds, with special focus on partnerships with the public authorities and the private sector. (G, I, I, c)
- To facilitate cross-border contacts of NGOs with national NGOs in countries of destination and origin. (G, I, I)
- International and regional organisations/institutions should make every effort to harmonise their activities in the field of trafficking in human beings in order to effectively address the pertaining needs. This applies to all areas of support, be it in relation to training activities, the provision of material support, projects on victim assistance or targeting presumed trafficked persons. (I, g, c)

ANNEXES

Interviewed Institutions and Organizations (October-November 2007)

KYIV (central level)

- Ministry of Foreign Affairs of Ukraine (Department of Consular Service)
- Ministry of Health Care of Ukraine (Department of Medical Assistance Management)
- Ministry of Interior of Ukraine (Department of Combating Crimes Related to Trafficking in Human Beings)
- Ministry of Labour and Social Policy of Ukraine
- Ministry of Ukraine for Family, Youth and Sports (Department of Family, Gender Policy and Demographic Development; State Department for the Adoption and the Protection of Children's Rights)
- Security Service of Ukraine
- State Employment Centre of Ukraine
- State Social Service for Family, Children, and Youth
- Supreme Court of Ukraine
- International Labour Organization
- International Organization for Migration Mission in Ukraine
- American Bar Association/Rule of Law Initiative, Europe and Eurasia Division (CEELI)
- NGO International Women's Rights Centre La Strada – Ukraine
- NGO School of Equal Opportunities

CHERKASY

- Department for Family, Youth and Sports of the Cherkasy Oblast State Administration
- Division of Combating Crimes Related to Trafficking in Human Beings of the Department of the Ministry of Interior of Ukraine in Cherkasy Oblast
- Main Department of Education and Science of the Cherkasy Oblast State Administration
- Main Department of Health Care and Medicine of Catastrophes of the Cherkasy Oblast State Administration
- Main Department of Labour and Social Protection of the Population of the Cherkasy Oblast State Administration
- Main Finance Department of the Cherkasy Oblast State Administration

CHERNIHIV

- Chernihiv Oblast Centre for Social Services for Family, Children and Youth

- Chernihiv Oblast Centre of Social and Psychological Assistance
- Department for Youth and Sports of the Chernihiv Oblast State Administration
- Department of Health Care of the Chernihiv Oblast State Administration
- Division of Combating Crimes Related to Trafficking in Human Beings of the Department of the Ministry of Interior of Ukraine in Chernihiv Oblast
- Main Finance Department of the Chernihiv Oblast State Administration
- Oblast Division of NGO Women's Union of Ukraine
- Prosecutor's Office of Chernihiv Oblast
- Service for Children of the Chernihiv Oblast State Administration
- NGO Chernihiv Public Committee of Human Rights Protection

CHERNIVTSI

- Chernivtsi Oblast Centre for Social Services for Family, Children and Youth
- Chernivtsi Oblast Employment Centre
- Department of Education and Science of the Chernivtsi Oblast State Administration
- Department of the Security Service of Ukraine in Chernivtsi Oblast
- Division for Family and Youth of the Chernivtsi Oblast State Administration
- Division of Combating Crimes Related to Trafficking in Human Beings of the Department of the Ministry of Interior of Ukraine in Chernivtsi Oblast
- Main Department of Health Care of the Chernivtsi Oblast State Administration
- Main Department of Labour and Social Protection of the Population of the Chernivtsi Oblast State Administration
- Main Finance Department of the Chernivtsi Oblast State Administration
- Prosecutor's Office of Chernivtsi Oblast
- NGO Suchasnyk

DONETSK

- Department for Family and Youth of the Donetsk Oblast State Administration
- Department of Combating Crimes Related to Trafficking in Human Beings of the Main Department of the Ministry of Interior of Ukraine in Donetsk Oblast
- Department of Education and Science of the Donetsk Oblast State Administration
- Department of the Security Service of Ukraine in Donetsk Oblast
- Donetsk Oblast Centre of Social and Psychological Assistance
- Donetsk Oblast Employment Centre
- Main Department of Labour and Social Protection of the Population of the Donetsk Oblast State Administration
- Main Finance Department of the Donetsk Oblast State Administration

- Prosecutor's Office of Donetsk Oblast
- Service for Children of the Donetsk Oblast State Administration
- NGO Donetsk Regional League of Business and Professional Women

KHARKIV

- Department for Family and Youth of the Kharkiv Oblast State Administration
- Department of Combating Crimes Related to Trafficking in Human Beings of the Main Department of the Ministry of Interior of Ukraine in Kharkiv Oblast
- Eastern Regional Department of the State Border Guard Service of Ukraine
- Kharkiv Oblast Centre for Social Services for Family, Children and Youth
- Kharkiv Oblast Employment Centre
- Main Department of Education and Science of the Kharkiv Oblast State Administration
- Main Department of Labour and Social Protection of the Population of the Kharkiv Oblast State Administration
- Main Finance Department of the Kharkiv Oblast State Administration
- Service for Children of the Kharkiv Oblast State Administration
- NGO Road to Future
- NGO Women's Community

KHMELNYTSKYI

- Department for Family, Youth and Sports of the Khmelnytskyi Oblast State Administration
- Department of Health Care of the Khmelnytskyi Oblast State Administration
- Division of Combating Crimes Related to Trafficking in Human Beings of the Department of the Ministry of Interior of Ukraine in Khmelnytskyi Oblast
- Khmelnytskyi Oblast Centre for Social Services for Family, Children and Youth
- Khmelnytskyi Oblast Employment Centre
- Main Department of Labour and Social Protection of the Population of the Khmelnytskyi Oblast State Administration
- Main Finance Department of the Khmelnytskyi Oblast State Administration
- Prosecutor's Office of Khmelnytskyi Oblast
- Service for Children of the Khmelnytskyi Oblast State Administration
- NGO Caritas
- NGO Espero

KYIV (regional level)

- Kyiv City Centre for Social Services for Family, Children and Youth
- Main Department for Family and Youth of the Kyiv City State Administration

LVIV

- Department for Family and Youth of the Lviv Oblast State Administration
- Department of Combating Crimes Related to Trafficking in Human Beings of the Main Department of the Ministry of Interior of Ukraine in Lviv Oblast
- Department of the Security Service of Ukraine in Lviv Oblast
- Lviv Oblast Centre for Social Services for Family, Children and Youth
- Lviv Oblast Employment Centre
- Main Department of Education and Science of the Lviv Oblast State Administration
- Main Department of Labour and Social Protection of the Population of the Lviv Oblast State Administration
- Main Finance Department of the Lviv Oblast State Administration
- Prosecutor's Office of Lviv Oblast
- Service for Children of the Lviv Oblast State Administration
- Western Regional Department of the State Border Guard Service of Ukraine
- Charitable Foundation Salus
- NGO Women's Perspectives

ODESA

- Department for Family and Youth of the Odesa Oblast State Administration
- Department of Combating Crimes Related to Trafficking in Human Beings of the Main Department of the Ministry of Interior of Ukraine in Odesa Oblast
- Department of Education and Scientific Work of the Odesa Oblast State Administration
- Department of the Security Service of Ukraine in Odesa Oblast
- Main Department of Labour and Social Policy of the Odesa Oblast State Administration
- Main Finance Department of the Odesa Oblast State Administration
- Odesa Oblast Employment Centre
- Prosecutor's Office of Odesa Oblast
- Service for Children of the Odesa Oblast State Administration
- Southern Regional Department of the State Border Guard Service of Ukraine
- NGO Public Movement Faith, Hope, Love

BACKGROUND DOCUMENTS

Ukrainian National Legislation

- Constitution of Ukraine, Law No 254k/96-VR of 28 June 1996.
- Civil Code of Ukraine, Law No 435-IV of 16 January 2003.
- Criminal Code of Ukraine, Law No 2341-III of 5 April 2001.
- Criminal Procedure Code of Ukraine, Law No 1001-05 of 28 December 1960.
- Law 'On Amending Criminal Code of Ukraine with Regard to Improvement of Liability for Human Trafficking and Coercive Engagement in Prostitution', No 3316-IV of 12 January 2006.
- Law 'On Social Services', No 966-IV of 19 June 2003.
- Law 'On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care', No 2342-IV of 13 January 2005.
- Law 'On Ensuring Safety of Individuals involved in Criminal Proceedings', No 3782-XII of 23 December 1993.
- Law 'On Information', No 2657-XII of 2 October 1992.
- Law 'On Amending Several Legislative Acts of Ukraine with Regard to Crossing the State Border of Ukraine', No 1723-IV of 18 May 2004.
- Law 'On Ratification of the UN Convention Against Transnational Organized Crime and its Protocols (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and Protocol against the Smuggling of Migrants by Land, Air and Sea)', No 1433-IV of 4 February 2004.
- Law 'On Social Work with Children and Youth', No 2558-III of 21 June 2001.
- Law 'On the Enforcement of the Decisions and Application of the Practices of the European Court of Human Rights', No 3477-IV of 23 February 2006.
- Law 'On the Prosecutor's Office', No 1789-XII of 5 November 1991.
- Cabinet of Ministers of Ukraine, Decree No 1573 of 8 November 2006 'On Approving the Regulation on the Ministry of Ukraine for Family, Youth and Sports'.
- Cabinet of Ministers of Ukraine, Decree No 766 of 5 June 2002 'On Approving the Comprehensive Programme on Combating Trafficking in Human Beings for 2002-2005'.
- Cabinet of Ministers of Ukraine, Decree No 608 of 12 May 2004 'On the Approval of the Standard Regulation on the Centre of Social and Psychological Assistance'.

- Cabinet of Ministers of Ukraine, Decree No 987 of 27 June 2003 'On the Approval of the Standard Regulation on the Rehabilitation Centre for Persons who Suffered from Trafficking in Human Beings'.
- Cabinet of Ministers of Ukraine, Decree No 1125 of 27 August 2004 'On the Foundation of the State Social Service for Family, Children and Youth'.
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- Cabinet of Ministers of Ukraine, Decree No 1383 of 4 October 2006 'On Approving the Regulation on the Ministry of Internal Affairs of Ukraine'.
- Cabinet of Ministers of Ukraine, Decree No 410 of 7 March 2007 'On Approving the State Programme on Combating Trafficking in Human Beings for the Period Until 2010'.
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Functions and duties of the Ministry of Ukraine for Family, Youth and Sports and its regional / local departments in relation to combating trafficking in human beings[135]

Normative and legislative base	Functions and tasks at the level of:			
	Ministry	Oblast	Region	City
Combating trafficking in human beings				
1. State Programme on Combating Trafficking in Human Beings for the Period Until 2010, approved by Decree of the Cabinet of Ministers of Ukraine of March 7, 2007, No. 410 **2. Regulation on Inter-Agency Council on the Issues of Family, Gender Equality, Demographic Development, and Combating Trafficking in Human Beings,** approved by Decree of the Cabinet of Ministers of Ukraine of September 5, 2007, No. 1087 **3. Standard Regulation on the**	Elaboration of state programmes and legislative acts on matters of combating trafficking in human beings (1). Coordination, control of work of structural divisions for family and youth (1). Provision of operation of Inter-agency Commission for Combating Trafficking in Human Beings (quarterly) (2), Expert Council (if necessary, but at least once per quarter) (5). Organization of work to establish a network of interregional reintegration centres with participation of International Organization for Migration (and NGOs) and local executive bodies (1, 3). Conduction of regional and interbranch meetings-seminars on matters of co-ordination of work of central and local executive bodies with regard to implementation of programmes and measures on matters of combating trafficking in human beings (1). Organization of	Coordination, control and provision of execution of state programmes at regional level (1). Participation in elaboration of state programmes on matters of combating trafficking in human beings (1), elaboration and implementation of regional programmes (1). Organization of work of permanent oblast regional commissions on matters of co-ordination of efforts and exchange of information about prevention of human trafficking (quarterly) (1, 2). Establishment of reintegration centres with participation of NGOs and local executive bodies (1, 3). Provision of methodological, informational and enlightening assistance in	Provision of execution of regional programmes (1), organization of operation of regional co-ordination councils (quarterly) (1, 2), establishment of reintegration centres for victims of human trafficking (if necessary) (1, 3). Conduction of trainings of specialists of city departments for family and youth and for different categories of citizens (1). Provision of methodological, informational and enlightening, explanatory assistance and consultations on matters of combating	Execution of regional programmes (1), organization of operation of city regional co-ordination councils (quarterly) (1, 2), methodological, informational and enlightening, explanatory work and consultations on matters of combating trafficking in human beings (1). Co-operation with NGOs, bodies of internal affairs, centres of social services for youth, services for

[135] This table was prepared and provided by the Ministry of Ukraine for Family, Youth and Sports. The information is valid as of February 2008. Unofficial translation

Rehabilitation Centre for Persons who Suffered from Trafficking in Human Beings, approved by Decree of the Cabinet of Ministers of Ukraine of June 27, 2003, No. 987 **4. Programme of Guarantee of Rights and Interests of Citizens Who Go Abroad for Employment, and Children Adopted by Foreigners, for the Period Until 2005,** approved by Decree of the Cabinet of Ministers of Ukraine of November 17, 2004, No. 1559 **5. Ministry of Ukraine for Family, Youth and Sports, Order No. 2546 of 16 July 2007, 'On Creation of the Expert Working Group for the Prevention of Domestic Violence and Combating Trafficking in Human Beings'**	trainings of heads of structural divisions for family and youth, employees of "hotlines" and "help lines", volunteers, representatives of public organizations on specified matters (1). Co-operation with central executive bodies, public and international organizations on specified matters (1). Enlightening work for all layers of population with participation of mass media, participation in preparation of social advertisements and informational videos (with participation of public organizations) (1). Provision of sociological research (1), preparation and submission of informational and analytical materials, reports, references on matters of combating trafficking in human beings to the Secretariat of the President of Ukraine, the Cabinet of Ministers of Ukraine (1), central executive bodies. Processing of orders of the Verkhovna Rada of Ukraine, the Secretariat of the President of Ukraine, the Cabinet of Ministers of Ukraine, consideration of applications from central executive bodies, public organizations and citizens.	this sphere (1). Organization and participation in regional and inter-branch meetings-seminars on matters of co-ordination of efforts to implement measures on combating trafficking in human beings (1, 2). Organization of trainings on specified matters for heads of regional departments for family and youth, persons in the risk group and other categories of society (1). Organization of provision of assistance to victims of human trafficking through the network of reintegration centres (3). Generalization of information with regard to data base of children whose parents went abroad to work (4). Preparation of reports on execution of programmes and measures on the above-mentioned matters. Consideration of applications and claims from citizens.	trafficking in human beings (1). Co-operation with bodies of internal affairs, health care, social protection of population, centres of social services for youth, services for minors (1, 2, 3). Establishment of data base for children whose parents went abroad to work (4). Organization of provision of assistance to victims of human trafficking through the network of reintegration centres (1, 3). Preparation of reports on implementation of programmes and measures on specified matters (1). Consideration of applications and claims of citizens.	children affairs (1). Organization of provision of assistance to victims of human trafficking through the network of reintegration centres (1, 3). Along with social services for family, children and youth, services for children affairs, establishment of data base of children whose parents went abroad to work (4). Preparation of reports on implementation of programmes and measures on specified matters (1). Consideration of applications and claims of citizens.

This Report was prepared as part of the Needs Assessment for the National Referral Mechanism for Victims of Trafficking in Human Beings in Ukraine. The assessment was conducted by a team of independent consultants; it was ordered by the office of the OSCE Project Co-ordinator in Ukraine upon the request from the Ministry of Ukraine for Family, Youth and Sports, with funding provided by the Danish Ministry of Foreign Affairs under the Danish Programme Against Human Trafficking in South-Eastern and Eastern Europe.

This Report assesses the situation of combating trafficking in human beings in Ukraine, in particular with regard to the identification, referral, assistance and protection of the rights of trafficked persons. It reviews the current responses by government and non-government institutions to the problems and needs of trafficked persons. Based on the findings of the assessment, the Report provides recommendations on strengthening the identification of trafficked persons in Ukraine, protection of their rights and enhancing their access to assistance within the framework of an effective National Referral Mechanism in Ukraine.

OSCE Organization for Security and Co-operation in Europe
OSCE Project Co-ordinator in Ukraine