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Trafficking in Human Beings in Ukraine

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Introduction

Trafficking in human beings (THB) is a global problem that has no borders, no age limits or gender differentiation. It can appear in different forms and different ways and has a transnational as well as national character. Human trafficking long ago became modern slavery, a form of severe violation of human rights.

Trafficking in human beings according to the UN definition is "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." ¹

According to estimates of the International Labour Organisation, in 2014 21 million people became victims of forced labour globally.² Eurostat's first comprehensive data collection on trafficking in human beings, estimates that 9,528 persons were identified as victims of human trafficking in EU Member States in 2010.³ However there is no definitive, nor reliable, data that shows numbers of victims of human trafficking worldwide. This is in part due to the underground and illegal nature of THB. Thus it is hard to estimate the real scope of the problem on a global scale. Official numbers of victims of human trafficking presented in reports cannot be taken as absolute numbers. The global community began to develop different measures and instruments in order to prevent and combat trafficking in human beings long ago. The number of victims assisted by international organisations, NGOs and civil organisations are much higher than those presented in official statistics. The conclusion that can be drawn is that there is no exact estimate on how many people each year becoming victims of human trafficking and all data available is just the tip of an iceberg.

Despite these challenges, existing data reaffirms the severity of the problem of human trafficking in global terms. Regions and countries, no matter what economic level of development they are at, suffer from this problem. The danger of the problem with trafficking in human beings, is that the phenomena adjusts to changing socioeconomic situations, changing global trends, invention of new media and technologies, new modus operandi of traffickers and desperation of victims.

That Ukraine is a country suffering from the problem of human trafficking, has been affirmed by numerous statistical data and reports. In 2011, Ukraine was globally ranked 87th out of 182 countries as prone to human trafficking.⁴ The International Organisation for Migration (IOM)

¹ UNODC, United Nations Convention Against Transnational Organized Crime and The Protocols Thereto, 2004 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, Article 3,

<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

² UNODC, *Global Report on Trafficking in Persons 2012* http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf

³ Eurostat, Trafficking in human beings, 2013. Report gives data for 2008, 2009 and 2010.

⁴ Kommersant, *Ukraina zanyala 87 mesto v mirovom reitinge po bor'be s togovlei ludmi*, 22 February 2012, <http://www.kommersant.ua/news/1878769>

in its February 2013 report, listed Ukraine amongst those countries with the greatest problem of human trafficking.⁵ In the US Governmental Report on Trafficking in Persons (TIP) 2013, Ukraine is in the Tier 2 Watchlist⁶ – meaning that Ukraine does not yet comply with a set of standards (although is making efforts to do so) and that THB is significantly increasing. These critical evaluations point out that Ukraine is facing a serious problem with human trafficking and that urgent measures need to be taken. Ukraine is not unique, almost all countries face the problem of human trafficking on different scales and in different manners. Countries deal with it on domestic level, through interstate cooperation, as well as by the means of international organisations.

In Ukraine in 2014 (January – June) the Ministry of Internal Affairs reported 67 cases of human trafficking.⁷ In 2013 the number of victims was 131 and in 2012 155 cases were registered.⁸ In 2012, Ukraine recorded 187 VoTs identified (124 women, 14 underage (14-18 years old) and 2 children (under 14 years old). 94 persons were under criminal charges and 57 were sentenced for preventive measures in the form of detention. 6 organized groups were identified for the period of 2012.⁹ According to information provided by the Ministry of Internal Affairs, from the beginning of 2013, 107 cases connected to human trafficking were registered by the Ministry. For the same period 85 victims of human trafficking were identified (61 women, 4 minors and 1 child). 64 persons are under criminal charges and 19 are sentenced for preventive measures in the form of detention. 52 criminal cases concerning human trafficking crimes are transferred to courts.¹⁰ According to latest reports in first half of 2014 50 VoTs were identified (36 women, 35 men, 1 underage and 1 child).¹¹

The problem of human trafficking in Ukraine did not however receive adequate attention and recognition by the state until recently, and it is not unique in this situation. In order to effectively tackle the problem of human trafficking, develop preventive and combating measures for trafficking in human beings, a country needs effective legislation, functional institutions as well as skilled professional personnel - all maintained with sufficient resources. Recently, Ukraine has made apparent steps forward to combat human trafficking on the national level. Along with these national efforts, the country is using a multi-vector approach to combat human trafficking. It develops national legislation and institutional framework as well as joining a range of international conventions that helps Ukraine to develop appropriate measures to combat THB. Many international organisations working in Ukraine, as well as independent experts, have pointed out efforts in the Ukrainian legislative sector to improve its framework in combating THB. The Ukrainian government has developed mechanisms for

⁵ Kiev pryzivaet mir obednitsya v borbe s tovgovley ludmi, inpress, 10 July 2013, <http://inpress.ua/ru/politics/11458-kiev-prizyvaet-mir-obednitsya-v-borbe-s-torgovley-lyudmi>

⁶ The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST: Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

⁷ Ministry of Internal Affairs, *Report on crimes connected with trafficking in human beings in January-June 2014*, 2014

⁸ Ministry of Internal Affairs, *Report on crimes connected with trafficking in human beings in 2013*

⁹ Ministry of Social Policy of Ukraine, *Report on realization of the state policy in combating trafficking in human beings in 2012, 2012*

¹⁰ Ministry of Internal Affairs, *response to the information request N7/9-243 from 10 September 2013*

¹¹ Ministry of Social Policy of Ukraine, *Report on realization of the state policy in combating trafficking in human beings in first half of 2014*, 2014

identifying victims of human trafficking (VoTs), as well as assistance to VoTs. In 2013, of 72 applications received by the Ministry of Social Policy for issuing the status of a victim of human trafficking, 29 were approved, 21 were refused, and 13 were under consideration.¹² Yet the urgent problem for Ukraine is implementation of the legislation. Lack of institutional ability and, especially, financial support from the government, makes it impossible to develop effective mechanisms on all levels for combating human trafficking.^{13 14}

Despite recent efforts, questions remain for Ukraine. How deep is the problem? What has Ukraine already done to combat human trafficking? What else can be done?

The scope of the problem

The changing nature of human trafficking creates greater challenges to develop a unique strategy to combat this problem. Ukraine, as the rest of the world, feels the downsides of globalisation processes that make new forms of human trafficking possible because of the rapid development of new technologies. Along with the changing forms in the modus operandi of human trafficking, destination points for victims are also changing.

Ukraine is recognised as a country of **origin, transit and destination for human** trafficking. It is also facing the growing problem of internal trafficking. According to data from the International Organization for Migration, since 1991, over 120,000 Ukrainians have become victims of human trafficking.¹⁵

The number of persons who became victims of human trafficking returning from EU member-states to Ukraine decreased from 18% in 2011 to 5.5% in 2012, and primary destination countries for human trafficking of Ukrainians are Russia and Poland.¹⁶ In 2013, Ukrainian victims of human trafficking were present in 57 states.¹⁷

The main people at risk among Ukrainian victims of human trafficking, were usually citizens from rural areas where economic and employment opportunities are much lower than in cities. However, recently, tendency has shifted for Ukrainians to now look for work abroad with a better salary,¹⁸ thus the increased vulnerability to cross-border trafficking. The living standards in Ukraine are quite low compared to the EU states, especially neighbouring states, such as Poland. The geographic and socioeconomic position of the country makes it vulnerable as a country of origin, destination and transit for human trafficking. In addition, the growing disparities in social standards of living inside Ukraine augment the risk in increased internal trafficking. Thus, in pursuing a better life, Ukrainians are becoming victims of human

¹² Zaholovok, 15 August 2013, Z pochatku roku status postragdalyh vid torgivli ludmy otrymaly 29 osib.

<http://zaholovok.com.ua/z-pochatku-roku-status-postrazhdalikh-vid-torgivli-lyudmi-otrimali-29-osib>

¹³ EUROPEAN COMMISSION MEMO Brussels, 20 March 2013 ENP Country Progress Report 2012 – Ukraine

¹⁴ The 2013 Trafficking in Persons Report June 2013 <http://www.state.gov/documents/organization/210742.pdf> pp. 373-375

¹⁵ International Organisation for Migration research <http://en.stoptrafficking.org/>

¹⁶ Ukrainian Helsinki Human Rights Union, Annual Report on Human Rights Human Rights in Ukraine 2012. Human Trafficking as a violation of human rights.

<http://helsinki.org.ua/index.php?id=1362662821&w=%F2%EE%F0%E3%B3%E2%EB%FF+%EB%FE%E4%FC%EC%E8>

¹⁷ Ukraincy staly zartwamy maie v 60 krainah, TBI, 10 June 2013,

http://tvi.ua/new/2013/06/10/ukrayinci_staly_zhertvamy_torhivli_lyudmy_u_mayzhe_60_krayinakh_mvs

¹⁸ Kharkiv Human Rights Protection Group, Yuriy Chumak, Maibutny program z protydii torgivli lud'my opracovue robo4a grupa. 11 February 2013, <http://khpg.org/index.php?id=1360535650>

trafficking, not only to other countries, but also, more recently, victims of internal trafficking as well.

One of the greatest challenges today in countering THB, is victim identification and subsequent assistance. This is exemplified in Ukraine, when despite estimates and reports of a growing problem of THB, only 7 persons in Ukraine received the status of a victim of human trafficking in 2012.¹⁹

Ukraine as a source country for human trafficking

Many Ukrainian citizens have suffered from different forms of human trafficking. IOM Ukraine reports that for the period 2000-2010 it assisted victims that had been trafficked to the Russian Federation (33% of the total victim recorded), Turkey (16%), Poland (14%), Czech Republic (5%), Italy (4%), other countries (24%) and 4% within Ukraine.²⁰

According to the US State Government TIP Report in 2014, main destination points for human trafficking from Ukraine are Russia, Poland, Iraq, Spain, Turkey, Cyprus, Greece, Republic of Seychelles, Portugal, the Czech Republic, Israel, Italy, South Korea, Moldova, China, United Arab Emirates, Montenegro, the United Kingdom, Kazakhstan, Tunisia, and other countries.²¹ The variety of countries that become destination points for trafficking in human beings from Ukraine re-affirms the immensity of the global reach of traffickers.

Ukraine as a transit country for human trafficking

Ukraine has the second largest migration corridor in the world with the Russian Federation.²² It also has long sea borders, which provide more destinations for human trafficking routes. Using Ukraine as a transit country, the main final destinations are Turkey and the UAE. Foreign nationals that were trafficked through Ukraine are from Moldova, Russia, Kyrgyzstan, and Uzbekistan.²³

Ukraine as a destination country

Ukraine has become the second most frequent destination country for human trafficking in 2012 – accounting for an estimated 15% of all trafficking cases recorded by IOM.²⁴ In 2013, victims of human trafficking to Ukraine were mainly nationals from Moldova, Uzbekistan, Pakistan, Cameroon, and Azerbaijan.²⁵ According to estimates of International Organisation for Migration in 2012, 56 foreign victims of human trafficking were identified, the number increased significantly from the last year when it was only 23. The largest percentage of victims was from Moldova (82%), and a visibly smaller percentage from Uzbekistan (18%).²⁶

¹⁹ Ukrainian Helsinki Human Rights Union, Annual Report on Human Rights Human Rights in Ukraine 2012. Human Trafficking as a violation of human rights.

<http://helsinki.org.ua/index.php?id=1362662821&w=%F2%EE%F0%E3%B3%E2%EB%FF+%EB%FE%E4%FC%EC%E8>

²⁰ International Organization for Migration (IOM) Mission in Ukraine, September 2011, Migration in Ukraine facts and figures

²¹ US TIP report 2014 <http://www.state.gov/j/tip/rls/tiprpt/2014/>

²² MPC - MIGRATION PROFILE, Ukraine The Demographic-Economic Framework of Migration The Legal Framework of Migration The Socio-Political Framework of Migration Report, June, 2013

²³ Ukraine Migration Profile, 2012

²⁴ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012. “exploited predominantly in forced labour (98%). This includes internal trafficking (60% of cases) as well as exploitation of foreigners.”

²⁵ The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST

²⁶ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012.

Internal human trafficking in Ukraine

The most recent growing tendency in Ukraine is internal trafficking. According to a 2013 IOM report, the problem of internal trafficking within Ukraine is growing each year. Data show that the number of victims increased from 6 in 2007 to 26 in 2012, and 16 persons in 2013 and accounted for 4% of human trafficking victims in Ukraine.²⁷ The Ukrainian Ministry of Social Policy in its annual report estimates that internal human trafficking is 8% of the total human trafficking in, from and to Ukraine in 2012. Risk categories for internal trafficking are children and young women, who are mainly trafficked for begging and forced sexual labour.²⁸

Types of trafficking

Human trafficking to and from Ukraine and within its territory, takes various forms. Victims are trafficked for forced labour, forced sexual labour, forced begging, sale of organs and sale of persons.²⁹

Forced Labour

According to IOM data for the period from 2004 to 2013, trends show that trafficking for labour is increasing in Ukraine. Yearly figures show a gradual increase in labour trafficking into Ukraine as well as in internal trafficking. In 2012, 80% of victims assisted by IOM in Ukraine were trafficked for labour³⁰ and as a destination country, Ukraine counts for 12% of the overall global estimate of labour trafficking in 2012, compared to Russia as the main destination (70%) and Ukraine's neighbour Poland having a lower percentage (7.2%).³¹

Victims of labour trafficking are usually forced to work in manufacturing, agriculture and construction as well as domestic work and nursing.³² Another widespread form of forced labour in Ukraine is begging. For instance, everyone visiting Kyiv, the capital of Ukraine, will see beggars (men, women, and children) on each corner near metro stations and churches. For Ukrainian society, begging is not seen as human trafficking. This creates difficulties in general awareness of THB and for identifying possible victims.³³

Sexual exploitation

Over recent years, data of people trafficked for sexual exploitation began to decrease from 2010. THB for sexual exploitation decreased from 369 persons in 2010 to 125 in 2012, and only 10 were declared in 2013.³⁴ Trafficking for sexual exploitation is now second place to

²⁷ International Organisation for Migration, *Protydiya Torgivli Ludmy : Ukraina Ekspluatatsiya praci, stanom ma 31 beresnya 2013roku*.

²⁸ Ministry of Social Policy of Ukraine, *Report on realization of the state policy in combating trafficking in human beings in 2012, 2012*.

²⁹ Cabinet of Ministers of Ukraine, Decreed #90 from 15 July 2012 <http://zakon4.rada.gov.ua/laws/show/90-2012-%D1%80>

³⁰ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012.

³¹ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012.

³² The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST

³³ BBC Ukraine, 5 December 2012, *Rabstvo i torgivlya ludmy: trudova eksplyatatsiya ukrainciv zrostaе*. http://www.bbc.co.uk/ukrainian/entertainment/2012/12/121204_modern_slavery_rl.shtml

³⁴ Iryna Stelmah, *Zertvam torgivli ludmy ne prosto otrymaty dopomogy*, 26 June 2013, Radiosvoboda, <http://www.radiosvoboda.org/content/article/25027945.html>

trafficking for labour. Some expert organisations explain the decline in sexual exploitation with the increased level of awareness among Ukrainian society, especially amongst groups at risk of this particular THB.³⁵

Gender and trafficking

Data from 2006 for Ukraine showed that mainly females (95%) were victims of human trafficking.³⁶ This trend was stable over a period of years and showed that females were more at risk of being trafficked. From 2010 however, a change in the trend occurred, when the number of male victims of trafficking increased dramatically.³⁷

In 2012, more men (56%) became victims of human trafficking in Ukraine than women, compared to 47% men in 2011. This data shows a growing trend towards exploitation in forced labour (construction, manufacturing and production), which in the current demographic, affects mainly men.³⁸

The vulnerability of girls and boys to trafficking is increasing in Ukraine, with children being exploited for begging, for petty crimes and for surrogacy.^{39 40}

In summary, numerous new trends are emerging, including an increase in labour exploitation; and an expansion of the at risk group, from young women (15-24) to women and men of all ages. Also, there is an increase in trafficking of children and of foreign nationals.⁴¹ The geographic destinations of victims are also expanding. These increasing numbers of victims of all ages and genders can be connected, but not limited to, the expanded use of new technologies and increasing demand for better socio-economic opportunities for people of both city and rural backgrounds.⁴²

What is the real danger?

The geographic position of Ukraine makes the country a suitable place for the development of crimes such as human trafficking. Ukraine has no established or ratified borders with Russia, Moldova nor Belarus, as the demarcation of its border lines is yet to be completed. This fact is reflected in the reality of geographic destinations and roots of human trafficking.

In addition to the geographic complexities, in general, society is not well informed about the problem of trafficking in human beings, or tends to only know a stereotyped concept. Most people are not aware of the different types and forms of human trafficking. The stereotype of sex trafficking of women is almost the only image that a regular Ukrainian citizen has vis-à-vis

³⁵ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012.

³⁶ Ahtyrskaya N. Torgivlya Lud'my v Ukrainin: pro sho svid4yt' sydova praktyka. 2006

³⁷ International Organization for Migration (IOM) Mission in Ukraine, September 2011, Migration in Ukraine facts and figures

³⁸ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2012 situation analysis*, 2012.

³⁹ UNODC, *Global Report on Trafficking in Persons 2012*

⁴⁰ http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf

⁴¹ Yearly Speech of Ombudsman of Ukraine on protection of human rights in Ukraine,

http://www.ombudsman.gov.ua/images/stories/07022011/Dopovid_8_1.pdf, 2011. (p. 195)

⁴² International Organization for Migration (IOM) Mission in Ukraine, September 2011, Migration in Ukraine facts and figures

⁴² Cabinet of Ministers of Ukraine, Decreed #90 from 15 July 2012 <http://zakon4.rada.gov.ua/laws/show/90-2012-%D1%80>

human trafficking. Yet as shown by statistics and estimates, males now account for around 25% of victims.⁴³

In addition, people may think that human trafficking crimes will not happen to them, as they assume that mostly young and un-educated people become victims. However, in 2009, 54% of victims of human trafficking in Ukraine were people with higher education.⁴⁴

Also, people mistakenly assume that human traffickers cannot be from amongst those that are closest friends or relatives, that human trafficking crimes are only conducted across national borders, or that working in neighbouring countries is much safer than elsewhere. Taken together, these assumptions point to a lack of awareness and understanding of risks of becoming a victim of human trafficking.

Another factor is the low level of trust of governmental institutions by people in Ukraine, as reflected in the research by the author, of the perception that no one helps victims of human trafficking. Even with the vast amount of work that NGOs and international organisations are doing on the national level to fight THB, it is still not enough to sufficiently raise the level of awareness of the general public. This is further exacerbated by the lack of information in the national media about crimes and criminals related to human trafficking, the scale of the problem and how victims can be assisted.

Institutional framework in Ukraine

The Cabinet of Ministers of Ukraine, the central state executive authorities, the local state executive authorities and diplomatic institutions of Ukraine abroad, are all institutions involved in assistance to victims of trafficking.⁴⁵

International organisations, NGOs and experts reported their concern in the weakening of the institutional framework to combat human trafficking, due to the fact that in 2010 and 2012 the Ministry of Internal Affairs went through the process of reorganisation and the Ministry of Social Policy was not reorganised properly to undertake functions in combating human trafficking.⁴⁶ On the other hand, recent developments in legislative sector and institutional structures of some central executive actors have presented positive trends.

According to the State Targeted Social Programme on Combating Trafficking in Human Beings for the period until 2015,⁴⁷ the state coordinator of the Program, is the Ministry of Social Policy of Ukraine, whereas the actors responsible for implementation are: Ministry of Social Policy, Ministry of Internal Affairs, Ministry of Foreign Affairs, Ministry of Health, Ministry of Youth and Sport, Ministry of Culture, Ministry of Justice, State statistics service of Ukraine, State Committee for Television and Radio broadcasting, Ministry of Economic

⁴³ UNODC 2012 report.

⁴⁴ Dovgopol N., *10 mifiv pro torgivlu ludmy*, 19 February 2009, Ukrainska Pravda <http://life.pravda.com.ua/technology/2009/02/19/14293/>

⁴⁵ Article 5 Law of Ukraine on Combating Trafficking in human beings <http://zakon1.rada.gov.ua/laws/show/3739-17>

⁴⁶ Ukrainian Helsinki Human Rights Union, Annual Report on Human Rights Human Rights in Ukraine 2012. Human Trafficking as a violation of human rights.

<http://helsinki.org.ua/index.php?id=1362662821&w=%F2%EE%F0%E3%B3%E2%EB%FF+%EB%FE%E4%FC%EC%E8>

⁴⁷ State Targeted Social Programme on Combating Trafficking in Human Beings for the period until 2015 <http://zakon2.rada.gov.ua/laws/show/350-2012-%D0%BF>

Development and Trade, Ministry of Infrastructure, Prosecutor General's Office of Ukraine (by agreement), Administration of the state boarder guard service of Ukraine, Security Service of Ukraine, The Council of Minister of the Autonomous Republic of Crimea, City state administrations of Kyiv and Sebastopol, public and international organisations (by agreement).

Even though there is a range of state authorities involved in implementation of main legislative acts on combating human trafficking, the Ministry of Social Policy remains the primary responsible actor.

Ministry of Social Policy

The Ministry of Social Policy, according to the Decree No. 29 of 18 January 2012, is appointed as the national coordinator in combating human trafficking in Ukraine.⁴⁸ However, the incompatibility of competences and resources of the Ministry of Social Policy for combating human trafficking, have been widely criticized by international organisations, NGOs and national experts. Even though the Ministry has the status of state coordinator, it does not have enough powers and infrastructure capacities in this sector. Yet despite this, in 2013, Presidential Decrees added even more legislative powers to the Ministry of Social Policy in the sector of combating human trafficking.⁴⁹ New provisions mandate the Ministry of Social Policy as:

- a special executive authority in sector of combating human trafficking in Ukraine (№ 164/2013 from 27.03.2013);
- responsible for formation and implementation of the state's policy in combating human trafficking № 164/2013 from 27.03.2013;
- the authority that provides legal regulation in prevention of trafficking of human beings (№ 51/2013 from 01.02.2013);
- responsible for international cooperation; participation in preparation of international agreements; preparation of proposals for conclusion; denunciation; and within its competencies, the Ministry can sign international agreements for Ukraine.
- responsible for assuring due implementation of international agreements by Ukraine in sphere of combating human of trafficking of human beings (№ 741/2011 from 08.07.2011, № 164/2013 from 27.03.2013).

The Minister of Social Policy also performs the role of the Head of the Inter-institutional Council on Family, Gender Equality, Demographic Development, Preventing Domestic Violence and Combating Human Trafficking according to the Decree of Cabinet of Ministers of Ukraine from 3 May 2012 № 354.⁵⁰ Among others, the main responsibilities of the Council are: the maintenance of the state policy on combating human trafficking; and informing the Cabinet of Ministers and civil society vis-à-vis implementation of the Program on Combating Human Trafficking. The Council is a consulting agency for the Cabinet of Ministers of Ukraine. The Council has to meet at least once in three months period. In 2014 the Council did not hold any meetings.⁵¹

⁴⁸ Cabinet of Ministers Decree № 29 from 18 January 2012 <http://zakon4.rada.gov.ua/laws/show/29-2012-%D0%BF>

⁴⁹ Presidential Decree № 389/2011 from 6 квітня 2011 <http://zakon4.rada.gov.ua/laws/show/389/2011>

⁵⁰ Cabinet of Ministers Decree № 1087 from 5 September 2007 <http://zakon1.rada.gov.ua/laws/show/1087-2007-%D0%BF/paran13#n13>

⁵¹ Ministry of Social Policy, *Report on realization of the state policy in combating trafficking in human beings in January – June 2014, 2014*

The number of functions that the Ministry of Social Policy has now been mandated to, vis-à-vis combating trafficking in human beings, requires an effective reformation of the structural framework on central and regional levels, as well as sufficient highly qualified personnel that can effectively act in this sector.

The few recent improvements to Ukraine's efforts to counter THB lie more in the domain of administration of victims of trafficking (VoTs) and training. For example, the Decree № 366 from 18.06.2012⁵² adopted official forms of application for: establishing a status of victim of human trafficking; persons who intend to apply for the status of a victim of human trafficking; non-disclosure of information; a registration card of the person who considers him/herself a victim of human trafficking; and certificates that establish the status of victims of human trafficking. VoTs receive a social category under the system of social benefits.⁵³ The Ministry of Social Policy has also adopted the procedure of estimation of needs of persons suffered from human trafficking, rehabilitation plans, accounting and reporting procedures on victims of human trafficking. This range of procedures was adopted under the Decree № 578 from 14 September 2012.⁵⁴

A few structural changes within the Ministry were then introduced in March 2013, with creation of a working group dealing with problems in implementation of a State Programme and improvement of legal background for combating THB in Ukraine (Decree 105).⁵⁵ However, these administrative reforms in 2013 weakened the institutions on the regional level, as all functions in Combating Trafficking in Human beings were spread amongst departments on regional levels. People working in these departments are not skilled enough to effectively report cases of THB as well as in providing help to VoT.⁵⁶

In response to these difficulties, the Ministry adopted a program for training of specialists for assisting victims of human trafficking from 16 August 2013.⁵⁷ The program includes: a range of lectures on identification of victims; assisting victims of trafficking; principles of assisting victims; as well as lectures on assisting children who are identified as victims of human trafficking. In the first half of 2014, 1716 persons participated in trainings organized within the programme.⁵⁸ The results however, are unknown.

As of September 2013, the Ministry of Social Policy had a Department of Gender Policy and Child's Sanitation, within which, is the Bureau for Combating Trafficking of Human Beings, with 5 employed officers.⁵⁹ This number of employees working on THB is improbably low, especially compared to the scope of responsibilities. This factor puts into question the ability of the Ministry to implement the Programme on Combating Trafficking in Human Beings effectively.

The recent conflict and instability in Ukraine call for even more actions from the Ministry as well as from all state actors in fighting trafficking in human beings. With a large number of

⁵² Ministry of Social Policy Decree № 366 from 18 June 2012 <http://zakon3.rada.gov.ua/laws/show/z1133-12>

⁵³ Ministry of Social Policy Decree № 672 from 23 October 2012 <http://zakon4.rada.gov.ua/laws/show/z1924-12>

⁵⁴ Ministry of Social Policy Decree № 578 from 14 September 2012 <http://zakon2.rada.gov.ua/laws/show/z1679-12>

⁵⁵ Ministry of Social Policy Report, 2014

⁵⁶ Annual Report on Human Rights. Human Rights in Ukraine 2013. <http://helsinki.org.ua/index.php?id=1398062190>

⁵⁷ Ministry of Social Policy Decree №508 from 16 August 2013

http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=153800&cat_id=150191

⁵⁸ Ministry of Social Policy, respond to information request from 20 September 2014

⁵⁹ Ministry of Social Policy, respond to information request from 20 September 2014

people forced to leave their homes in eastern Ukraine, the Ministry has launched a promotional campaign to prevent increasing the number of victims of trafficking. The campaign aims to raise awareness among society on how not to become a victim of human trafficking; places where VoTs can obtain assistance and explanations as to what services they are entitled to. Informational leaflets, seminars and information materials under this campaign have been distributed on regional and local levels.⁶⁰

The Ministry of Social Policy has also presented positive developments in providing statistical data and information to general public. This can also increase peoples' awareness about the scope of the problem in Ukraine.

Overall positive developments have been visible in Ministry's activities concerning combating trafficking in human beings. Yet, much more that has to be done in order to achieve concrete results.

Ministry of Internal Affairs

Among the main aims of the Ministry of Internal Affairs are to ensure personal security and protect citizens' rights and freedoms.⁶¹ Prior to the administrative reform in 2010, the Ministry of Internal Affairs had a department of combating human trafficking (formed in 2005) and regional departments on combating human trafficking were also created.⁶²

The MoI Department of Cybercrime and Human Trafficking was reorganized in 2010. Due to the reorganisation, its institutional capabilities and possible range of activities in the sector of combating human trafficking decreased and the Anti-trafficking Department was subordinated to the General Crimes Department.⁶³ Under provisions of the Law on Combating Trafficking in Human Beings, the Ministry is responsible for the general list of crimes connected to trafficking in human beings.⁶⁴

Further changes in 2012 meant that the staff of the unit was cut to 16 detectives from 70 officers in 2010. Reorganisation also influenced the regional level, as the number of personnel was cut by 50%.⁶⁵ These reductions have a negative effect on actions of the Ministry in combating human trafficking in Ukraine, as lowering the administrative capacity of the Ministry leads to the lowering number of detected crimes in 2012. Human trafficking was not among priority goals in 2013 for the Ministry of Internal Affairs and along with lack of financial resources, it suffered from low professionalism in implementing priorities of the state in combating human trafficking.⁶⁶ According to the information provided by the Ministry of Internal Affairs, as of 7 July 2013 it had 283 officers dealing with human trafficking in Ukraine, including 15 in the central administration of the Ministry of Internal Affairs.⁶⁷

⁶⁰ Ministry of Social Policy http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=163797&cat_id=160722

⁶¹ Ministry of Internal Affairs of Ukraine, official web. Page <http://mvs.gov.ua/mvs/control/main/uk/publish/article/47900.jsessionid=6255A615C142A28FE4EEAA1275516172>

⁶² U MVS stvorenyi department borotby z torgivleu ludmy, Juridical journal #3/2005 <http://www.justinian.com.ua/article.php?id=1594>

⁶³ The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST

⁶⁴ Cabinet of Ministers Decree № 303 18 August 2012 <http://zakon4.rada.gov.ua/laws/show/303-2012-%D0%BF>

⁶⁵ The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST

⁶⁶ *Implementation of the European Neighbourhood Policy in Ukraine Progress in 2012 and recommendations for action*, Brussels, 20.3.2013, SWD(2013) 84 final

⁶⁷ Respond to information request № 7/9-243i from 10 September 2010. Ministry of Internal Affairs of Ukraine.

The specialised Department of Combating Trafficking in Human Beings was recreated again within the Ministry of Internal Affairs on August 30, 2013. The department now consists of 22 officers.⁶⁸ This structural change on the institutional level is a positive development for Ukraine. However, the number of officers dealing with human trafficking is still too low to deal with the problem on the national scale.

A trend in recent years is an apparent decreasing number of crimes and persons charged under Article 149 of the Criminal Code of Ukraine. However, this decreasing tendency in human trafficking related crimes is actually explained as not decreasing numbers of crimes in themselves, but rather due to the decrease of capabilities of authorities to cope with trafficking related crimes, and hence detect crimes. With the newly created department dealing with trafficking in human beings, this tendency may change. Yet, the problem with lack of numbers of personnel dealing with the problem of human trafficking on central and local levels still exists. As well as the additional problem of weak process of identification of crimes connected to human trafficking that is strongly linked to a lack of proper professional trainings.

The other urgent problem that experts and international organizations are pointing to is the high level of corruption. 84% of Ukrainian citizens surveyed in 2013, noted police as “extremely corrupt”.⁶⁹ This problem directly concerns the Ministry of Internal Affairs and its ability to prosecute criminals related to human trafficking crimes. Experts working with this problem in Ukraine have raised concerns about the inability to define the highest-placed actors in human trafficking schemes, due to the high level of corruption in law enforcement agencies in Ukraine. The Ministry of Internal Affairs is not seen as a role model for policing. In Ukrainian terms, it acts more as law enforcement actor. Taking into account negative trends such as an extremely high level of corruption and after recent events in Ukraine, the absence of trust of citizens, it is hard to expect results from this agency.

Ukrainian legislation states that almost all ministries and agencies on the national level have to combine their efforts in order to combat human trafficking. Although, considering information given by various actors, the Ministry of Social Policy remains the only institution on the national level that takes action in combating human trafficking. Information given by other Ministries does not lead to a conclusion that real actions are taken within these other Ministries. On regional level and local levels only one person is appointed as responsible for realization of the state policy on combating human trafficking and monitoring the procedure of issuing status of VoT.⁷⁰

As noted, based on the legislative background, Ukraine has entitled state institutions with a range of responsibilities in combating trafficking in human beings. Adoption of proper legislative acts and regulations authorizes state actors to develop sufficient institutional background for combating trafficking in human beings. However, the actual functioning of state actors in this sector is not ideal. Despite some recent positive developments, such as the creation of specialised departments in respective Ministries and improvements in the process of assistance to victims, the number of specialists working in the sector of combating human trafficking is inadequate. Insufficient state funding is one of the biggest challenges for the

⁶⁸ Ministry of Social Policy Decree №508 from 16 August 2013

⁶⁹ Global Corruption Barometer 2013, Ukraine, Transparency International, <http://www.transparency.org/gcb2013/country?country=ukraine>

⁷⁰ Ministry of Social Affairs, respond to information request from 20 September 2014

functioning of state actors. Legislative support is very important to trigger real changes, but it is not enough to see results.

Legislation

Ukraine has recently taken various legislative actions to combat THB. On the international level, Ukraine has signed and ratified range of conventions that constitute a solid background for legislative change and have pushed Ukraine to develop national measures in order to combat trafficking in human beings.

Since 1994, Ukraine has been party to the 1926 Geneva Slavery Convention that condemns any slave trade activity, and recognises slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”⁷¹

In 2004 Ukraine ratified the *United Nations Convention against Transnational Organized Crime*, as well as the associated *Palermo Protocols*. In 2011 Ukraine ratified the *Council of Europe Convention on Action Against Trafficking in Human Beings*. Under its provisions Ukraine undertakes responsibility to protect all victims of human trafficking that have been identified on Ukrainian territory. The Convention also sets out a monitoring mechanism to ensure proper implementation of its provisions.⁷²

In 2014 Ukraine signed an Association agreement with the European Union that underlines respect of human rights and freedoms as one of the most crucial basis for future cooperation.⁷³

On the national level, in 1998 the Criminal Code of Ukraine was amended to incorporate Article 124-1 on human trafficking, such that criminal responsibility for crimes related to human trafficking were criminalised with punitive measures of 3-15 years imprisonment.⁷⁴

A New Criminal Code was adopted in 2001 and came into force on September 1st. In this Code, Article 149 defines criminal responsibility as cases of crimes related to human trafficking and any illegal transfer deals in respect of a human being.⁷⁵

The State Programme on Combating Human Trafficking 2002-2005 was adopted by the Cabinet of Ministers in June 2002.⁷⁶ However, in this Programme, measures were mostly concentrated around combating the sexual exploitation of women, and not enough attention was given to trafficking of children, minors and men on international and national levels.⁷⁷

⁷¹Slavery Convention, 25 September 1926

http://portal.unesco.org/culture/en/files/38440/12815475701Slavery_Convention_%281926%29.pdf/Slavery%2BConvention%2B%281926%29.pdf

⁷²Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16 May 2005

<http://www.conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>

⁷³European Union External Action service, EU-Ukraine Association agreement – the complete texts

http://eeas.europa.eu/ukraine/pdf/4_ua_title_iii_justice_freedom_security_en.pdf

⁷⁴Criminal Code of Ukraine, 2000, <http://zakon4.rada.gov.ua/laws/show/2001-05/page5> . Replaced with the new redaction of the Law from 2011.

⁷⁵Criminal Code of Ukraine, 2011 <http://zakon4.rada.gov.ua/laws/show/2341-14/page4>

⁷⁶National Programme on Combating Human Trafficking for the period 2002-2005, Cabinet of Ministries Decree #766 from 5 June 2002 <http://zakon4.rada.gov.ua/laws/show/766-2002-%D0%BE>

⁷⁷Cabinet of Ministries Decree # 188-p from 5 April 2006. <http://umdpl.info/index.php?id=1238140020>

The State Programme on Combating Human Trafficking 2007-2010 was adopted by the Cabinet of Ministers in 2007.⁷⁸ This Programme was criticized by national and international experts for not paying enough attention to institutional changes, as well as insufficient financing of combating human trafficking measures within the Programme.⁷⁹ Despite all well-justified critical comments, it was another important step towards combating human trafficking on the national level. Subsequently, the Ukrainian government strengthened legislation with the adoption of the Law on Combating Trafficking in Human Beings in 2011. Development of this law was a requirement under the National Plan on Implementation of the EU-Ukraine Action Plan on visa liberalization, as approved by the President in 2011.⁸⁰

The Law on Combating Trafficking in Human Beings⁸¹ establishes a state policy for combating human trafficking as well as containing provisions for the adoption of a new National Programme on Combating Human Trafficking.

The National Programme on Combating Trafficking in Human Beings 2011- 2015 was adopted in 2012 and came into force in 2013.⁸²

In Ukraine, the Law on Combating Trafficking in Human Beings now constitutes the main legislative ground for combating trafficking. The adoption of the Law on Combating Human Trafficking resulted into the amendment to key legislative acts for the improvement of state's policy in combating trafficking in human beings, notably the Law of Ukraine on Social work with families, children and youth and the Law of Ukraine on Immigration. The Verchovna Rada is the central monitoring authority for its implementation.

Provisions of the Law establish the background for Ukraine's policy, as well as international cooperation, in combating human trafficking. It identifies the legal and organisational principles of Ukraine's approach to combating human trafficking, defines the main principles of Ukraine's policy and establishes the Executive authorities responsible for developing and implementing policy. The Law also encompasses provisions on the rights of victims of human trafficking, and it outlines measures that must be taken at different stages of combating human trafficking (from prevention of human trafficking to prosecution of human trafficking related crimes). The Law identifies special procedures for the treatment of child victims of human trafficking. In addition, under the Law, foreign citizens that are victims of human trafficking are treated as a special category.

Under the Law, the President of Ukraine appoints the national coordinating authority for effective implementation and central authorities are responsible for realisation of the Programme on Combating Trafficking in Human Beings, coordination of assistant centres and raising awareness of THB amongst Ukrainians. Adoption of measures for identification of victims of human trafficking is the responsibility of the Cabinet of Ministers of Ukraine. The key element of the identification procedure is the interview with possible victims. Under the

⁷⁸ National Programme on Combating Human Trafficking till 2010, Cabinet of Ministries Decree #410 from 7 March 2007 <http://zakon4.rada.gov.ua/laws/show/410-2007-%D0%BF>

⁷⁹ Report on the Implementation of the State's Programme on Combating Trafficking in Human Beings till 2010, La Strada-Ukraine, 2011.

⁸⁰ National Plan on Implementation of the EU-Ukraine Action Plan on visa liberalization <http://zakon1.rada.gov.ua/laws/show/494/2011>

⁸¹ Law on Combating Trafficking in Human Beings, 2012, <http://zakon4.rada.gov.ua/laws/show/3739-17>

⁸² Cabinet Of Ministers Decree № 350 from 21 March 2012 <http://zakon4.rada.gov.ua/laws/show/350-2012-%D0%BF>

Law, the decision of issuing a status of victim of human trafficking must be within a month of the interview and the status can be issued for two year period.

The Law on Combating Trafficking in Human Beings covers the necessary measures and categories for preventing and combating human trafficking as well as outlining assistance and rehabilitation measures for victims. However, the adoption of the law was not followed with the adoption of all necessary legislative acts to implement fully provisions of the Law. Also, effective implementation of the Law demands close collaboration of state authorities on different levels: central and local - a condition that is hard to accomplish, as there is no effective communication mechanism at present between authorities. Experts point out that even with positive developments, there still remains a lot to be done, especially on: structural measures of assistance to victims; improvement of the procedure of defence of witnesses that is not covered by the additional legislative acts; and for those that are covered, but which are not effectively implemented in practice.⁸³

According to Decree № 783, national administrations are responsible for effective counteraction in combating human trafficking. Kyiv's and Sevastopol's administrations shall report to the Ministry of Social Policy on statistics of victims of human trafficking. Accordingly, the Ministry of Social Policy is responsible for the adoption of the official form to assess needs of a victim of human trafficking. The Decree also specifies a special procedure if a victim of trafficking is identified as a child. Also foreign nationals that are a victim of trafficking have the right for a free translator if he/she does not speak Russian or Ukrainian.

A rehabilitation plan for a victim is formed in accordance to individual needs. The formal form of the plan shall be adopted by the Ministry of Social Policy.

Further steps were taken by the Ministry of Social Policy with the adoption of official forms for reports on the:

- Assessment of needs of person suffered from human trafficking;
- Rehabilitation plan for victims of human trafficking;
- Statistics of victims of trafficking;
- Report on victims of human trafficking.⁸⁴

In 2013, the procedure for paying one-time financial assistance to the victims of human trafficking came into force in accordance with the Cabinet of Ministers Decree № 660 from 25 July 2012.⁸⁵ The procedure states that the documents that a person needs in order to obtain financial aid include: an application form (which is approved by the Ministry of Social Policy); a copy of the document that confirms the status of a victim of human trafficking; a copy of ID; a copy of a document confirming that a person is disabled (if needed). Financial assistance should be granted within a month period in accordance to funds allocated in the state budget. The one-time financial assistance varies depending on categories of victims (children, minors, persons with ability to work, disabled persons).

Even with the developments in legislation, in particular, the Criminal Code, the challenge of successful prosecution of criminals still exists. In addition, criminals prosecuted for trafficking

⁸³ A. Poludenko, Yak Ukraina Protydie Ekspluatacii Ludei, 22 June 2012 <http://ukrainian.voanews.com/content/ap-trafficking/1246009.html>

⁸⁴ Cabinet of Ministers Decree № 578 from 14 September 2012 <http://zakon2.rada.gov.ua/laws/show/z1679-12>

⁸⁵ Cabinet of Ministers Decree № 660 from 22 July 2012 <http://zakon1.rada.gov.ua/laws/show/660-2012-%D0%BF/paran9#n9>

related crimes are often first prosecuted for other crimes, for example, when trafficking related crimes are treated as a breach of labour law, thus receiving reduced penalties to that of the Law on combating Trafficking in Human Beings.^{86 87} This points to both to loopholes in Ukrainian legislation, as well as insufficient training and professional skills of judges when it comes to human trafficking cases.

Ukrainian Programme on Combating Trafficking in Human Beings

Following international best practices in combating human trafficking, Ukraine adopted its latest Programme on Combating Trafficking in Human Beings 2011-2015. The Programme aims to prevent human trafficking, protect rights of victims and develop the system of assistance to victims of trafficking, and improve the prosecution procedure of criminals' committed trafficking-related crimes. The Programme's main goals are to: raise awareness of THB among Ukrainian society; increase the effectiveness of cooperation between state authorities, international and non-governmental organisations, as well as other legal entities in this sector; and increase the professional level of specialists who work with victims of trafficking.

One of the biggest problems in implementation of the Programme, as pointed out by international and local experts, is the lack of funding from the state budget. The approximate amount of funding for three years is 7,393,184 UAH (683,599 EUR) - expected to be allocated from the state and local budgets and other sources. 2,996,616 UAH (277,077 EUR) is expected to be allocated from the state budget; 1,514,833 UAH from local budgets and 2,881,735 UAH (266,455,09 EUR) from other sources (funds, NGOs, international organisations). On an annual basis, the Programme budget is expected to be only 1,574,064 thousand UAH (145,543 EUR) for 2013; 979,201 UAH (90,540EUR) for 2014 and 1,755,296 UAH (162,301 EUR) for 2015.⁸⁸ The Programme was not supported by any budget allocations in 2012.⁸⁹ However, the actual budgetary allocation for 2013 amounts to only 510,000 UAH (50,000 EUR).⁹⁰ In 2014 the amount of allocation dropped to 82, 000 UAH (5, 014 EUR).⁹¹ The Ministry of Social Affairs, according to its latest report, has initiated changes to budgetary allocations for the State Programme on Combating THB. These changes aim to introduce measures to ensure more economy and efficiency in spending budgetary allocations for the State Programme on combating trafficking in human beings. The proposal is still under consideration by the Ministry of Justice of Ukraine.⁹²

These insufficient budgetary allocations along with possible decrease in funds undermine Ukraine's ability to effectively implement provisions of the Law on Combating Human

⁸⁶ The 2013 Trafficking in Persons Report June 2013 TIER 2 WATCH LIST

⁸⁷ Naskilky zakonodavstvo Ukrainy u sferi protydyi torgivli ludmy vidpovidae mignarodnym standartam, La Strada Ukraine, http://www.la-strada.org.ua/ucp_mod_news_list_show_274.html

⁸⁸ Cabinet of Ministers Decree № 90-p from 15 February 2012 <http://zakon4.rada.gov.ua/laws/show/90-2012-%D1%80>

⁸⁹ Zilgalov V. 20 June 2013, Radiosvoboda, Torgivlya ludmy v Ukraini zrostaе.

<http://www.radiosvoboda.org/content/article/25023343.html>

⁹⁰ Ministry of Social Policy, respond to information request N 72/56/208-12 from 9.09.2013

⁹¹ Ministry of Social Policy, respond to information request from 20. 09. 2014

⁹² Ministry of Social Affairs, Report on realization of state policy on combating trafficking in human beings in January – June 2014, 2014

trafficking and trigger institutional changes in accordance with the Programme on Combating Trafficking in Human Beings.

Under the National Programme on Combating Trafficking in Human Beings, in 2012, the Cabinet of Ministers adopted a procedure of collaboration amongst actors active in combating human trafficking.⁹³ Despite having this Programme, Ukraine still struggles with procedures of identification of victims of human trafficking and also with violations of human rights of victims. Part of this reason is because the system of identification of victims is not well coordinated between responsible authorities and it is almost impossible to provide assistance when needed. In addition, a lack of training and skills of personnel working to counter human trafficking on different levels exacerbates this problem.⁹⁴

A 2013 report on implementation of the Programme issued by the Ministry of Social Policy⁹⁵ presents some positive outcomes that were achieved in 2013. Especially it underlines number of information campaigns that have helped to raise awareness among society towards problem of trafficking in human beings and lead to the decrease of numbers of (registered) crimes connected to THB in 2013. In addition, the 2013 Report presents impressive numbers in terms of specialists trained to work in combating THB in Ukraine (3'500 people). However, the report admits that there are not enough trainings available, not only for personnel dealing directly with human trafficking crimes, but also for specialists in other sectors (education, therapists who assist VoT etc.)

Hence, the current implementation of the Programme, even though it shows some positive results already, lacks effective collaboration of local and city councils to be effective in combating human trafficking.

National Referral Mechanism (NRM)

The National Referral Mechanism (NRM) for Victims of Trafficking was adopted in 2012. It provides the legal background for medical, social, legal assistance to victims of human trafficking. Under the NRM, foreign citizens defined as victims of human trafficking have a right for a temporary stay in Ukraine. Under provisions of the Law on Combating Human Trafficking, the responsibility for NRM lies under local administrations. However, local personnel are not skilled enough to effectively assist victims of human trafficking. The 2013 TIP report contained a range of recommendations for improvement of the NRM, directed mainly at the functioning of government officials on all levels: from identification of victims of human trafficking to effective assistance.⁹⁶ Ukrainian experts in their latest report, outlined positive tendencies in the functioning of the NRM in 2013.⁹⁷ However, the 2014 U.S. Government TIP Report (released in June 2014) pointed out weak implementation of the National Referral Mechanism in Ukraine and significant confusion amongst victims and local service providers.

⁹³ Cabinet of Ministers Decree № 783, from 22 August 2012 <http://zakon1.rada.gov.ua/laws/show/783-2012-%D0%BF>

⁹⁴ Bilyi S., Derzava Ukraina pogano zahyshae zertv torgivli ludmy i nedostatno boretsya z cym ganebnym yavushem – rezyltaty gromadskogo monitoryngu, 15 August 2013, <http://briz.if.ua/13014.htm>

⁹⁵ 2013 Report on Implementation of Targeted State Programme on Combating Trafficking in Human Beings for the period until 2015, Ministry of Social Policy, 2013

⁹⁶ US TIP report 2014. P391.

⁹⁷ Zaholovok, 15 August 2013, Z pochatku roku status postragdalyh vid torgivli ludmy otrymaly 29 osib. <http://zaholovok.com.ua/z-pochatku-roku-status-postrazhdalikh-vid-torgivli-lyudmi-otrimali-29-osib>

According to IOM data in 2012-2013, 54 persons were issued official Status of a Victim of Trafficking in Ukraine out of 86 applications submitted.⁹⁸ In 2013-2014, 54 persons were issued official Status of a Victim of Trafficking in 2014.⁹⁹ Official statistics of people who were given official status of a victim of human trafficking differ drastically from the number of persons assisted by the IOM (from December 2012 to March 2013 IOM assisted 1060 persons). Such a gap in numbers proves the inability of state mechanisms to assess and assist the real number of victims. Also, the latest report of IOM underlines the lack of cooperation among actors on national, regional and local levels in order to assist VoT within adopted NRM.¹⁰⁰

Victim Assistance

Aiming to continuously improve, the Ministry of Social Policy has standardized social assistance to victims of human trafficking (Decree 438, 30 July 2013).¹⁰¹ It comprises recommendations on methods of identification of needs of victims of human trafficking, as well as separating child VoTs as a group with special assistance needs. Also gender aspects are considered important to take into account while developing measures of social assistance. The Decree contains a list of services that can be offered to victims of human trafficking. There are now 672 social centres of social services for family, children and youth that play main role in assisting VoT. Also currently 20 centres of social and psychological rehabilitation of VoT are in place in Ukraine. Both are funded from local budgets along with other sources that are not prohibited by Ukrainian legislation. In the first half of 2014, 38 persons (18 women, 18 men and 2 children) received assistance in social centres.¹⁰²

Although, the number of centres cannot be taken as an indicator of a successful implementation of the Programme as there is no definite number of people assisted by these centres.

Compensation

One more positive development for further actions in supporting victims of human trafficking was the adoption of the official form of payment of one-time financial assistance to victims of human trafficking. The official form was adopted on the 5th of March 2013.¹⁰³ The form contains four categories of people (children up to 6 years, children from 6 to 18 years, people with ability to work, disabled persons). The amount of financial support is defined within the Law on State Budget of Ukraine for 2013 from 28 July 2013.¹⁰⁴ According to Chapter 7 of the Law, minimum wage is appointed for four categories, valid from 1 of January 2013, and then it increases to the second amount indicated from the 1st of December. Children up to 6 years – 972 UAH/1032 UAH (87/97 EUR), children from 6 to 18 years – 1210/1286 UAH (113/121 EUR), people with ability to work – 1147/1218 UAH (107/114 EUR), disabled persons – 894/949 UAH (84/89 EUR). Procedure of financial assistance to VoT was adopted under Cabinet of Minister's Decree No. 660 from 25 July 2014.¹⁰⁵

⁹⁸ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2013 situation analysis*, 2013.

⁹⁹ Ministry of Social Policy, respond to the information request from 20.09.2014

¹⁰⁰ International Organisation for Migration, Mission in Ukraine, *Human Trafficking in Ukraine – 2013 situation analysis*, 2013.

¹⁰¹ Ministry of Social Policy Decree № 458 from 30 July 2013 <http://zakon2.rada.gov.ua/laws/show/z1327-13/print1378904528418679>

¹⁰² Ministry of Social Policy, respond to the information request from 20.09.2014

¹⁰³ Ministry of Social Policy Decree № 99 from 5 March 2013

http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=150297&cat_id=150191

¹⁰⁴ Law on State Budget of Ukraine for 2013 from 28 July 2013 <http://zakon2.rada.gov.ua/laws/show/5515-17>

¹⁰⁵ Ministry of Social Policy, respond to the information request from 20.09.2014

The adoption of one-time financial assistance to victims of human trafficking is an undisputable step forward in the process of assistance to victims. However, the amount of money that is provided is too little to provide real assistance to victims of trafficking. In 2013 41 victims of human trafficking have received financial aid. As for 29 September 2014 20 persons have received one time financial assistance. Total amount of funds paid for 2013 and first half of 2014 is 66.297 UAH (4'052 EUR).¹⁰⁶

The Decree of the Ministry of Social Policy from 19.07.2013 on recommendations on social assistance to victims of human trafficking № 432, identifies criteria that social workers and specialists must take into account while providing assistance to victims of human trafficking. Norms of social assistance are developed on the basis of recommendations from the Program for Economic reforms 2010-2014, adopted by the President of Ukraine from 12.03.2013 № 128.

Summary of the Status Quo

Advances, such as the adoption and development of proper measures for the implementation of the Programme on Combating Human Trafficking, indicate a positive trend for Ukraine. However, there remain concerns that advances will mostly stay in the legislative sphere, that is, the long duration of the process for the adoption of the proper application forms, negatively impacts on the speed and quality of implementation of the Programme. The Law on Combating Human Trafficking was adopted in 2011, yet three years later, all necessary legislative acts to efficiently implement its provisions have not been concluded. Furthermore, the Consulting Body that aims to provide recommendations and expertise to the Cabinet of Ministers has not been active. The staffing and financing of the department within the Ministry for Social Policy dealing with the problem of human trafficking in Ukraine, is insufficient to cope with the range of responsibilities that are mandated to the Ministry. These problems show the weakness of the institutional structure within the main actor implementing state policy on combating human trafficking.

What else can be done?

Relying only on government measures is insufficient to assist victims of human trafficking as well as to raise awareness among society. There are range of NGOs, social organisations and international organisations working in Ukraine that also help victims of human trafficking and monitor governmental steps in this sector.

The Counter-Trafficking Programme of the International Organisation for Migration Mission in Ukraine¹⁰⁷ was launched in 1998. The Programme covers protection and reintegration of victims of trafficking; prosecution of criminals committing trafficking related crimes; prevention of trafficking in human beings; and partnership and advocacy. With the help of the Programme, victims of human trafficking can receive assistance (financial, medical, psychological), that is provided on a confidential basis. IOM's Counter-Trafficking Programme

¹⁰⁶ Ministry of Social Policy, respond t information request 20.09.2014

¹⁰⁷ International Organisation for Migration, http://en.stoptrafficking.org/view.about_us/

has played a significant role in the development and adoption of the legislative ground for combating human trafficking in Ukraine through direct participation of IOM's experts in working groups on drafting legislation.

In 2014, the International Organization of Migration in Ukraine together with Ministry for Social Affairs implemented a number of projects to combat THB:

- Under the Counter Trafficking Programme, creation of an electronic database of victims of human trafficking for Ministry of Social Affairs as well as monitoring measures for NRM were developed.
- Under the Strengthening Migration Management and Cooperation on Re-admission in Eastern Europe (MIGRECO) project, 2 seminars were held for officers working in the field of combating THB, also an information campaign was launched in more than 3 oblasts in Ukraine in order to rise awareness about the problem of THB.¹⁰⁸

La Strada Ukraine¹⁰⁹ is one of the first NGOs working on combatting human trafficking in Ukraine, and has been doing so since 1998. La Strada's sphere of actions to combat human trafficking include lobbying for the improvement of state policy; research on human trafficking and sexual exploitation of children; cooperation with governmental, NGO and international organisations; and activities to raise awareness of citizens and promote educational programs about human trafficking among children and youth. La Strada provides social assistance to victims of human trafficking (legal, medical, psychological etc) as well as a hot line for the public.

In 2014, La Strada, together with Ministry of Social Policy, developed a text of scientific and practical commentary to the Law of Ukraine on Combating trafficking in human beings and the 2011-2015 State Programme on Combating Trafficking in Human Beings.¹¹⁰

Europe gives a hand

As argued in this paper, Ukraine has not developed sufficient institutional nor financial capacity to combat human trafficking on the national level. Thus, collaboration with international and regional organisations is essential to support Ukraine with the expertise and necessary funding to develop needed measures to combat trafficking in human beings. Within the European Neighbourhood Programme (ENP) Ukraine receives financial and expert support to develop sufficient legislation and to adjust its institutional structure to a European standard.

Ukraine is a partner state to the European Neighbourhood Policy (ENP) of the EU. Cooperation within the ENP is built on respect for democracy and human rights, rule of law, market and sustainable development.¹¹¹ The ENP also aims to "help the Union's objectives in the area of Justice and Home Affairs, in particular in the fight against organised crime and corruption, money laundering and all forms of trafficking, as well as with regard to issues related to

¹⁰⁸ Ministry of Social Policy, Report on Implementation Results (1st half –year 2014)of the State Programme on Combating Trafficking in Human Beings until 2015

¹⁰⁹ La-Strada Ukraine, http://www.la-strada.org.ua/ucp_mod_content_show_istoriya-tsentr.html

¹¹⁰ Ministry of Social Policy, Report on Implementation Results (1st half –year 2014)of the State Programme on Combating Trafficking in Human Beings until 2015

¹¹¹ European External Action Service, What is European Neighbourhood Policy? http://eeas.europa.eu/enp/about-us/index_en.htm

migration”.¹¹² The political commitment of a state within the ENP, takes the form of Association Agreement, accordingly, a partner country has to undertake changes on the national level in order to sign the agreement.

The EU-Ukraine Association Agenda, adopted in 2009 and updated in 2011, aimed to prepare and facilitate the implementation of the Association Agreement. It outlines that Ukrainian authorities should pay more attention to ensuring respect for rights of children, ensuring cooperation with civil society to prevent selling, trafficking and exploitation of children. It also emphasised the need to focus on cooperation in the framework of justice and security, through developing institutional and legislative framework to combat trafficking in human beings.¹¹³ The signing of the agreement was put on hold in the light of recent events in Ukraine, but after the elections on 25 May, it was finally signed on 27 June.¹¹⁴

Provisions of the EU-Ukraine Action Plan on Visa Liberalization in the *Section 3: Public order and security* legislation calls for the “Adoption of a law on trafficking in human beings, adoption of an action plan to effectively implement the National Programme for Combating Trafficking in human beings containing a timeframe, specific objectives, activities, results, performance indicators and sufficient human and financial resources”.¹¹⁵ The second phase of the Action Plan includes implementation of legislative acts to combat trafficking in human beings and effective collaboration between state agencies in this sector. EU reports note that Ukrainian efforts within the legislative phase of the Action Plan on Visa Liberalisation are positive, in that legislation and strategic documents for combating in trafficking in human beings have been developed within a short period of time.¹¹⁶

The Annual Action Programme 2012 for Ukraine of the National Indicative Programme 2011-2013 identifies its main goals as: the improvement of combating organized crime, trafficking in human beings and drugs. Border management is also a priority and the NIP aims to reach European standards that facilitate combating cross-border crimes, including trafficking in human beings.¹¹⁷

The European Neighbourhood Policy (ENP) Country Progress Report 2012 for Ukraine, recognised steps taken by the Ukrainian government in combating human trafficking, as well expressing its concern with the high level of corruption and the reverse effect of administrative reform in the country.¹¹⁸ With recent developments in Ukraine, the problem of trafficking in human beings has again been highlighted. Constant violations of human rights, missing people, numerous cases of women being sexually exploited in occupied territories, has brought more attention from the EU to these problems. In August 2014, the European Commission

¹¹² COMMUNICATION FROM THE COMMISSION European Neighbourhood Policy STRATEGY PAPER, Brussels, 12.5.2004, COM(2004) 373 final

¹¹³ European Commission – External Relations, Ukraine
http://ec.europa.eu/external_relations/ukraine/index_en.htm

¹¹⁴ The EU's Association Agreements with Georgia, the Republic of Moldova and Ukraine http://europa.eu/rapid/press-release_MEMO-14-430_en.htm

¹¹⁵ EU-UKRAINE Visa Dialogue, Action Plan On Visa Liberalisation

¹¹⁶ Implementation of the European Neighbourhood Policy in Ukraine Progress in 2012 and recommendations for action, Brussels, 20.3.2013, SWD(2013) 84 final

¹¹⁷ European Neighbourhood and Partnership Instrument, NATIONAL INDICATIVE PROGRAMME 2011-2013, Ukraine
http://eeas.europa.eu/enp/pdf/pdf/country/2011_enpi_nip_ukraine_en.pdf

¹¹⁸ http://europa.eu/rapid/press-release_MEMO-13-257_en.htm, ENP Country Progress Report 2012 – Ukraine. Published 2013.

announced a provisional financial assistance of €2.5 million in order to help most vulnerable societal groups affected by the conflict in Ukraine.¹¹⁹

Newly elected Ukrainian President will have to intensify measures on the state level in order to effectively combat THB. The new President has not been in power long enough to estimate effectiveness of his policies towards combating trafficking in human beings. So far Poroshenko has been showing his commitment to European values. Amongst others, signing of the Association Agreement with the EU and reformation of the Ministry of Internal Affairs. Yet outcomes of actions taken so far will only be visible in a long term perspective. Currently, intensified cooperation with the EU in many sectors, covering security and justice, human rights, border management, visa liberalization, migration etc. brings hope for further changes on the national level.

Regarding financing to combat THB, under the ENP, Ukraine has access to both EU expertise and EU funds to support reforms. As such, between 2011-2013, Ukraine received €470.05 million in financial aid from the European Neighbourhood and Partnership Instrument (ENPI). This included €43.37 million allocated to the Comprehensive Institution Building Programme (CIB), which is “designed to help partner countries strengthen the capacities of key institutions involved in preparing, negotiating and implementing the new Association Agreements with the EU, the creation of free trade areas and the management of enhanced mobility opportunities in a secure environment.”¹²⁰ Support within the CIB is provided under the Technical Assistance and Information Exchange (TAIEX) and Twinning instruments, however to date, only TAIEX has supported activities to combat human trafficking in Ukraine. Between 2012 and September 2013, 4 projects were undertaken in Ukraine concerning combating of human trafficking within TAIEX.¹²¹ In 2014 no projects were held in the field of combating trafficking of human beings in Ukraine.¹²²

European Union Border Assistance Mission (EUBAM)

European Union Border Assistance Mission (EUBAM)^{123 124} is an advisory mission with a mandate to enhance the border-management capabilities of Ukraine and Moldova. EUBAM was launched in 2005 and the mission is funded by the EU and UNDP is an implementing partner. The current mandate of the Mission is valid until the 30 November, 2015.

Even though preventing human trafficking is not among the main aims of EUBAM, activities are undertaken as a complimentary element to establishing security of borders. For example, in 2012 EUBM held a first specific training exercise on trafficking in human beings. Trainings included theoretical learning combined with practical exercises aimed to show sensitivity of detecting THB cases.¹²⁵ In 2014 representatives of EUBAM together with EU agencies and representatives from academic, government and civil society sector held a meeting to tackle a problem of human trafficking in Eastern Neighborhood. As a result partner countries

¹¹⁹ Fact Sheet EU-Ukraine relations, Brussels, September 2014, p. 6

¹²⁰ EUROPEAID, Comprehensive Institution Building in the framework of the Eastern Partnership http://ec.europa.eu/europeaid/where/neighbourhood/regional-cooperation/enpi-east/cib_en.htm European Neighbourhood and Partnership Instrument Ukraine, National Indicative Programme, 2011-2013

¹²¹ Ministry of Social Policy, respond to the information request #3707/0/8/13-3B from 17 September 2013

¹²² Ministry of Social Policy, respond to the information request from 20.09.2014

¹²³ The European Union Border Assistance Mission to Moldova and Ukraine <http://www.eubam.org/en/about/overview>

¹²⁴ EUROPEAID, Ukraine http://ec.europa.eu/europeaid/where/neighbourhood/country-cooperation/ukraine/ukraine_en.htm

¹²⁵ EUBAM holds first training session on trafficking in human beings, 24 September 2014 <http://enpi-info.eu/eastportal/news/latest/30289/EUBAM-holds-first-training-session-on-trafficking-in-human-beings>

exchanged number of approaches and national practices to combat trafficking in human beings.
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Cross Border Cooperation Programmes within ENPI (CBC ENPI)¹²⁷

Several CBCs aim to tackle the problem of THB. The programmes include non-EU and EU member states that have common border lines. The aim of CBC Programmes is to foster cooperation among different levels (state and local authorities), as well as civil society and NGO's to combat the problem of trafficking in human beings.

ENPI CBC Romania-Ukraine-Republic of Moldova Programme

This programme is the most supportive in combating THB, with a total funding of 126'718 million EUR between 2007 and 2013.¹²⁸ Within the joint Programme between Romania, Ukraine and the Republic of Moldova, three projects focussed on combating human trafficking.

The project "*Preventing and combating human trafficking through the development of a cross-border, inter-institutional network and increasing the level of information of vulnerable people*",¹²⁹ implemented by the Association of Human Rights Protection and Democracy Development "Yustinian" (2011-2012, total budget EUR 129.274)¹³⁰, aimed to organise local activities in order to raise the awareness of people about the problem of human trafficking. The main target group were young people.

In 2012 the project "*Cross- border inter-institutional network for preventing abuse in the field of child rights protection*" aimed to increase awareness of parents about the risks of children's trafficking and labour abuse.¹³¹

In 2011-2012, the project "*Get informed in time: human trafficking EXISTS*"¹³² aimed to increase awareness among citizens via informative and promotional activities in Ukraine and Romania with a project budget of EUR 155.255. The results of the project included an increase of the awareness of the population about a problem of trafficking in human beings, as well as sharing amongst participants, best practices of NGOs from participating states on combating human trafficking.

¹²⁶ Eastern Partnership Panel on Migration and Asylum addressed human smuggling, 26 June 2014 http://enpi-info.eu/maineast.php?id=37782&id_type=1&lang_id=450

¹²⁷ Aisling Walsh, I inclusive growth's quest to exclude human trafficking, NTERACT ENPI, spring 2012 <http://www.interact-eu.net/downloads/4965/INTERACT%20Newsletter%20%257C%20Spring2012%20%257C%202009%20inclusive%20growth%20E2%2580%2599s%20quest%20to%20exclude%20human%20trafficking.pdf>

¹²⁸ ENPI CBC Romania-Ukraine-Republic of Moldova Programme http://ec.europa.eu/europeaid/where/neighbourhood/regional-cooperation/enpi-cross-border/documents/enpi_cbc_romania-ukraine-moldova_fact_sheet_en.pdf

¹²⁹ Aisling Walsh, I inclusive growth's quest to exclude human trafficking, NTERACT ENPI, spring 2012 <http://www.interact-eu.net/downloads/4965/INTERACT%20Newsletter%20%257C%20Spring2012%20%257C%202009%20inclusive%20growth%20E2%2580%2599s%20quest%20to%20exclude%20human%20trafficking.pdf>

¹³⁰ KEEP database, <http://www.territorialcooperation.eu/frontpage/show/4747>

¹³¹ Aisling Walsh, I inclusive growth's quest to exclude human trafficking, NTERACT ENPI, spring 2012 <http://www.interact-eu.net/downloads/4965/INTERACT%20Newsletter%20%257C%20Spring2012%20%257C%202009%20inclusive%20growth%20E2%2580%2599s%20quest%20to%20exclude%20human%20trafficking.pdf>

¹³² KEEP database, <http://www.territorialcooperation.eu/frontpage/show/4733?ss=fc86337dfe149d83498036a3333b085852832b5390928018f4af09ae55943fe4#bb>

The Hungary Slovakia-Romania-Ukraine ENPI Cross-border Cooperation Programme¹³³

The Hungary Slovakia-Romania-Ukraine ENPI Cross-border Cooperation Programme (2007-2013) had the main aims to: promote economic and social development, enhance environmental policies, increase border efficiency and support people to people cooperation. The project *"Together against human trafficking"*¹³⁴ was funded by the EU with 10% co-financing from Romanian and Hungarian governments and own contributions of implementing organisations. The project concentrates on combating human trafficking by enhancing cooperation among NGOs from these states. In particular, by sharing expertise and practices in combating human trafficking, raising awareness of THB to at-risk groups and the general public. In Ukraine, the project implementer is the Malteser Charity Organisation of Berehovo, which undertakes trainings, conferences and media campaigns with NGO employees, teachers, police and border police services dealing with human trafficking and young people.

Conclusion

Ukraine is a country with a disturbing number of victims of trafficking. Ukraine officially admitted the existence of the problem in 2000 when it signed the UN Convention against Transitional Organized Crime. A relatively late admission of the problem on the national level played a role in the inability of Ukrainian legislative and institutional framework to deal effectively with the problem. Being a country of origin, destination, transition of human trafficking, Ukraine also increasingly suffers from internal trafficking in recent years. Despite these facts, Ukraine's efforts up until today, are still insufficient to combat the problem of THB.

The one positive aspect however, is that Ukraine has definitely showed some response with the development of necessary legislation and a National Programme for Combating Trafficking. The adoption in 2011 of the Law on Combating Human Trafficking together with the National Programme on Combating Trafficking, development of National Referral Mechanism (NRM) along with standardization of identification and assistance to victims. The legislative base is still developing in order to combat THB, however, indicating a positive trend for future developments. Yet, legislation itself is not enough to bring positive outcomes, institutional changes are necessary as well. On institutional level there is much to be done in order to achieve an effective response to problem of human trafficking in Ukraine. Although some positive developments must be noted, such as the Ministry of Internal Affairs having a dedicated separate department dealing with human trafficking since 2012. Thus Ukraine is making some progress, but as defined by the most recent US TIP report of 2014, still remains on the Tier 2 list (that is, "Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards »)¹³⁵. Thus it is clear that Ukraine needs to amplify its positive trend forward by: strengthening assistance procedures for victims of human trafficking; enhancing

¹³³ The Hungary Slovakia-Romania-Ukraine ENPI Cross-border Cooperation Programme <http://www.huskroua-cbc.net/en/information-about-the-programme>

¹³⁴ Together against human trafficking <http://www.against-human-trafficking.eu/en/about-the-project/>

¹³⁵ <http://www.state.gov/j/tip/rls/tiprpt/2013/210548.htm>

institutional capacity; cooperating with NGOs for victim assistance and finally, a need for Ukraine to politically prioritise budgeting to fight THB.

Cooperation with NGOs and international organisations is one of the strongest points where Ukraine is moving forward with combating problem of trafficking in human beings. Expert assistance and practical help to victims from non-state actors can, indeed, be seen as the moving force of the process of combating THB on national level.

With recent developments in Ukraine, the growing number of THB crimes has meant that it has become more challenging to develop effective measures in combating THB. The new government will have to put sufficient efforts into further strengthening the institutional and legislative ground for combating human trafficking related crimes.

So far, newly elected President Poroshenko has shown respect and deference to rules of law and human rights. Among others, strengthening of cooperation with the EU, signing of Association Agreement that implies changes on institutional and legislative level on domestic level, also institutional reform that will rearrange Ministry of Internal Affairs according to best world practices. This is important, as so far, it has been the European Union providing financial and expert assistance to Ukraine in this sector. Recent developments in Ukraine have brought more attention from the EU to human rights in Ukraine, thus it is also hoped, a greater attention to the problem of human trafficking.

