


UNIVERSAL PERIODIC REVIEW

UKRAINE

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ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes) is the leading global network working to end the commercial sexual exploitation of children (child prostitution, child pornography and child trafficking). It represents 82 member organizations from 75 countries. ECPAT International holds Consultative status with ECOSOC. Website: www.ecpat.net

Executive summary

This contribution aims to provide a review of the four year period between 2008 and 2012 of the situation of the implementation of international obligations/commitments on commercial sexual exploitation of children (CSEC) in Ukraine. Ukraine is party to the core international treaties addressing child rights protection, but still has not ratified all regional standards in this field, namely the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201). In terms of domestic legal framework, Ukrainian legislation lacks a comprehensive definition of child prostitution and child trafficking. In addition, under Ukrainian legislation children engaged in prostitution are considered offenders rather than victims. Ukrainian authorities should review and amend relevant laws addressing CSEC to comply with international legal standards.

With regard to policy framework, the Ukrainian National Plan of Action lacks a comprehensive approach to the commercial sexual exploitation and sexual abuse of children. Furthermore, there is no recognition of the increasing problem of child sex tourism in Ukraine and there is a lack of preventive policies in that area. There is also lack of coordination between stakeholders in combating CSEC. Additionally, there are no recovery programmes funded or run by the State which specifically target victims of commercial sexual exploitation.

The following findings are drawn from relevant literature including the ECPAT International Global Monitoring Report on the Status of Action Against Commercial Sexual Exploitation of Children – Ukraine: Second edition (2011) and the Committee on the Rights of the Child (CRC), “Concluding Observations: Ukraine, Fifty – sixth session” (2011).

1. Current normative and institutional framework for the promotion and protection of human rights

1.1 Legal Framework

1.1.1 International Legal Standards

Ukraine has ratified the core international instruments addressing the commercial sexual exploitation of children. Ukraine has ratified the *Convention on the Rights of the Child* (1989) (CRC) in 1991, the *Optional Protocol on the sale of children, child prostitution and child pornography* (2000) (OPSC) was ratified in 2003. Ukraine has also ratified the ILO Convention on the Worst Forms of Child Labour (1999) in 2000 as well as the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (2000) in 2004.

1.1.2 Regional Legal Standards

Ukraine has not yet ratified all regional legal standards protecting children from commercial sexual exploitation. Even though Ukraine ratified the *Council of Europe Convention on Cybercrime* (CETS No. 185) in 2005 and the *Council of Europe Convention on Action against Trafficking in Human Beings* (CETS No.197) in 2010, Ukraine has not yet ratified the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse* (CETS No. 201).

Therefore, Ukraine must ratify the Council of Europe’s Convention on *the Protection of Children against Sexual Exploitation and Sexual Abuse*.

1.1.3 Domestic Legal Framework

1.1.3.1 Laws addressing child prostitution

Ukrainian domestic legislation against child prostitution is considerably weak. Current legislation focuses primarily on the punishment of pimps and prostitutes rather than the clients, which is reflected in the provisions criminalising child prostitution. As highlighted by the Committee on the Rights of the Child in 2011¹, Ukrainian legislation against child prostitution does not meet the requirements of the OPSC, namely the term “child prostitution” has not been incorporated into national legislation; there is no criminalization of individuals who engage in sexual activity with children; children are considered more often as offenders rather than victims; there are no provisions regarding the rehabilitation of children involved in prostitution.

Recent research illustrates the high level of vulnerability of Ukrainian children to become involved in prostitution. A 2010 study published by UNICEF Ukraine and the Centre for Social Expertise of the Institute of Sociology of the National Academy of Science of Ukraine in reveals the potential magnitude of the problem. Researchers sampled 1,000 children aged 14 to 18 years living in precarious economic situations as well as socially excluded children. The research revealed that 11% of them had displayed their nude body; 10.4 % had let others touch their naked bodies (“feel them up”); 7.8% had had sex for a fee; and 3.6% had consented to being photographed or shot in a film while nude. Some of the interviewed children acknowledged receiving sexual propositions, as well as occasional acceptance of those offers².

According to official statistics from the Ukrainian Ministry of the Interior 43 cases of children victims of prostitution were registered by militia between 2009 and 2011. During the same period, 479 children between the ages of 16-18 were registered by the police for engagement in prostitution³.

However, neither, national legislation, nor state policy includes provisions to prevent children being engaged in prostitution or protection for victims of sexual exploitation.

Article 303 of the Ukrainian Criminal Code, which punishes those who engage or force a child into prostitution serves as the main provision in national legislation for the protection of children against prostitution.

International standards call for the criminal immunity of child victims of prostitution. However, this position is not fully recognised within the domestic legislation of Ukraine, which places responsibility for being involved in prostitution on exploited child victims⁴. There remains administrative responsibility for those children between 16 and 18 years of age engaged in prostitution. Therefore, those children are considered as offenders rather than victims of sexual exploitation. In addition, children engaged into prostitution do not have

¹ Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Ukraine*, 2011. Accessible at:

http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.UKR.CO.3-4_en.pdf

² UNICEF, *Sexual Exploitation of Children: What is the Situation in Ukraine?*, 2010. Accessible at :

http://www.unicef.org/ukraine/media_13963.html

³ Information provided by All-Ukrainian Network against CSEC, affiliated group of ECPAT International in Ukraine.

⁴ La Strada Ukraine. *Legal Study to identify inconsistencies between Ukraine national legislation and provisions of the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography to the UN Convention on the Rights of the Child*. 2010, p. 15. Accessible at: http://www.unicef.org/ukraine/AnalytReport_eng.pdf

access to specialized services aimed at their rehabilitation and reintegration. Such gaps should be urgently addressed by relevant Ukrainian authorities.

The Ukrainian Criminal Code contains numerous gaps. Articles 155.1 and 156.1, criminalize the commission of lecherous acts against individuals under the age of 16 and for sexual relations with an individual who has not reached sexual maturity. At the same time, the legislation does not consider using the sexual services of a child over 16 years old or of a child that has reached the age of sexual maturity to be a crime.

There were several draft laws registered in the Ukrainian Parliament during 2010-2011 aimed at improving Ukrainian domestic legislation against child prostitution (draft laws 7390, 7391 and 9540). However, all of these draft laws were referred back to the Members of Parliament. Because of lack of political will to change the law, and a general lack of understanding of the problem of child prostitution; children are not seen as victims, clients are not seen as offenders.

Key recommendations

- Introduce clear definitions of child prostitution into national legislation and conduct awareness raising campaigns among stakeholders and general public regarding the phenomenon of child prostitution.
- Cancel legal responsibility of children engaging in prostitution and provide specialized and appropriate health care for children who have been exploited in prostitution; including the support of child centred local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.
- Develop initiatives and programmes to address the demand that leads to child prostitution.

1.1.3.2. Laws addressing the sexual exploitation of children in travel and tourism

In 2010-2011 The NGO La Strada-Ukraine, coordinator of the All-Ukrainian Network against CSEC, conducted the first research devoted to the phenomenon of child sex tourism in Ukraine. It showed that cyberspace plays a significant role in facilitating sex tourism in Ukraine. According to this research, the issue of child sex tourism is increasing in Ukraine. The main factors that lead to child sex tourism in the country are poverty, children neglect, lack of moral-ethical values of children and youth, alcoholism and drug addiction. The Ukrainian government does not adequately recognize the problem. Therefore, no measures to prevent and eliminate the issue have been taken by the State.

The main source of information for sex tourists are websites of sex tourist agencies that cater to foreign clients. In addition, online sex tourism forums provide “personalised” advice from more experienced sex tourists and expatriates, answers to specific questions, or referrals for services. The existence of such services contributes greatly to potential exploiters’ preference to come to the Ukraine⁵.

The analysis of Ukrainian legislation, Laws of Ukraine “On tourism”, “On childhood protection”, State program “On development of tourism” and National program “National

⁵ Bandurka I.O., Bochor N.P., Yevsyukova M.V. and others, *Child sex tourism in Ukraine: the attempt of the situational analyses*, 2012.

plan of action for implementation UN Convention on Child Rights” for period 2006 – 2016 in particular, shows its tolerance to sex tourism and child sex tourism in particular. There are no legal measures aimed at the prevention of child sex tourism, effective investigations of cases or the punishment of perpetrators, protection or rehabilitation of child victims.

There is no state activity in the field of promotion, encouragement or support for the adoption of professional Codes of Conduct on protection children from sexual exploitation within the tourism, travel and hotel sectors.

Key recommendations:

- Recognize the problem of child sex tourism in Ukraine and identify it as a matter of priority on the political agenda.
- Develop and implement a national awareness-raising and education strategy to overcome factors that may encourage child sex tourism within Ukraine.
- Initiate and support creation of a Code of Conduct for the protection of children from sexual exploitation in tourism and travel to be signed by all stakeholders.
- Improve national legislation in combating the phenomenon of child sex tourism.
- Establish and implement an adequate system of identification and rehabilitation for children victims of sexual exploitation.

1.1.3.3 Laws addressing Child pornography

While noting the progress in combating the phenomenon of child pornography - namely improved national legislation (2010) and an improved investigation processes, there are still gaps in the legislation. Specifically, the mere possession of child pornography and knowingly obtaining access, through information and communication technologies, to child pornography, is not criminalized.

According to official statistics from the Ukrainian Ministry of the Interior 29 cases of child pornography were reported during 2009-2011⁶. However, this data does not depict the real situation, as much of the child pornography is produced for export and rarely circulated within Ukraine.

In November 2009 La Strada-Ukraine launched an Internet hotline specifically dedicated to reporting child pornography (www.Internetbezpeka.org.ua) and between November 2009 and November 2011, the hotline received 547 reports, 189 of which related to child pornography.

In 2009 and 2010 national legislation on combating child pornography was amended. Notably, term ‘child pornography’ was incorporated into national legislation, and the penalties for production of child pornography were increased. Additionally possession of pornography (both adult and child) with the aim of distribution was criminalized in Ukrainian criminal law. However national legislation still needs improvement, particularly as mere possession of child pornography (possession without intent to distribute) or knowingly obtaining access, through information and communication technologies, to child pornography are not criminalized.

In 2009, with the support of NGOs, including ECPAT International and La Strada Ukraine, and social responsible business companies such as Microsoft-Ukraine, mobile operators Kyivstar, MTS and Ukrtelecome began to take preventive measures to address the issue of child safety

⁶ Letter No 12581/211 from the Ministry of Internal Affairs to Member of Parliament Olena Bondarenko. 25 August 2011.

online. In February 2012 the Code of Conduct for Information Technologies providers was adopted. However, it is very important to continue to develop this work in order to build effective preventive programs.

Key recommendations:

- Criminalize the mere possession of child pornography and the act of knowingly obtaining access to it.
- Take the necessary legislative measures to require Internet service providers, mobile phone companies, and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results.
- Continue to conduct educational and awareness raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children to improve their understanding of the risks of sexually exploitation on the Internet, mobile telephones and other new technologies.

2. Promotion and protection of human rights on the ground: implementation of international human rights

2.1 Key areas of concern with regards to the implementation of children’s rights laws and policies addressing commercial sexual exploitation on the ground

2.1.1 Lack of support services for children victims of CSEC

As pointed out by the Committee on the Rights of the Child in 2011⁷, there are very limited specialized support services for children victims of CSEC in Ukraine run by the State. Therefore, support services for children (medical and legal assistance, counselling and education) are mainly provided by NGOs. A good practice example of such support services was the social-rehabilitation centre “Sofia,” established in 2008 in Odessa by the NGO “Love, Faith, Hope,” a member of the All-Ukrainian Network against CSEC. The centre hosted up to 12 girls and was one of the first examples in Ukraine of a shelter specifically for CSEC and sexual abuse victims. Unfortunately, due to a lack of financial support, the centre was forced to close in January 2011. The State does not provide support to such shelters run by NGOs⁸.

Furthermore, there are no recovery programmes run or funded by the State which specifically target victims of commercial sexual exploitation. There are general provisions aiming to support children who have suffered from brutal treatment or violence, but the special needs of children who have been involved in child prostitution and child pornography are not taken into specific consideration.

The national program *National Plan of Action for the Implementation of the UN Convention on Child Rights* for the period 2006 – 2016” includes provisions for the creation of a system of rehabilitation and reintegration for children victims of trafficking, sexual exploitation and

⁷ Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Ukraine*, 2011. Accessible at: http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.UKR.CO.3-4_en.pdf

⁸ ECPAT International, *Global Monitoring Report on the status of action against commercial sexual exploitation of children Ukraine – Second Edition*, 2011. Accessible at: http://www.ecpat.net/EI/Pdf/A4A_II/A4A2011_EU&CIS_UKRAINE_FINAL.pdf

other forms of violent treatment. This legislative act was adopted in 2009. However, as of April 2012 no such system has been developed or introduced.

Key recommendations:

- Ensure the establishment of specific services for child victims of CSEC, such as shelters and psychological assistance, and financially assist NGOs providing such services.
- Establish specialised rehabilitation programmes for children involved in the production and dissemination of child pornography, and children involved into prostitution.

2.1.2 Coordination of activities in the field of CSEC

There is a lack of coordination activities in the field of CSEC. During the last ten years most coordination efforts relevant to CSEC have revolved around human trafficking. Coordination to prevent and combat other forms of CSEC, such as child pornography, child prostitution and child sex tourism, remains weak⁹.

There is no institution in Ukraine in charge of the coordination of activities in the field of CSEC. According to the law, child rights protection falls under the domain of the Service on Child Affairs, represented by the State Department on Adoption and Protection of Children. However, this division focuses primarily on adoption and homeless children, with limited attention to counteracting the sexual exploitation of children.

Unfortunately, some recent Ukrainian administrative reforms have managed to weaken the institutional mechanisms tasked with addressing CSEC issues. In 2010, the Department of Criminal Militia for Child Affairs operating under the Ministry of the Interior was eliminated and its tasks were scattered amongst different divisions within the same Ministry and the militia as a whole. In the past, these activities strongly enhanced the level of child protection, making it possible to promptly detect and put on a list the families where children are subjected to violence, study the reasons for family problems and, where necessary, remove children from dangerous environments. However, instead, the Department was entirely disbanded, and its past functions were scaled down to preventive activities only and divided among other units. Along with the radical staff cuts in the departments of internal affairs, this was a very regressive move for children protection mechanisms as a whole.

Key recommendations:

- Assign a state institution responsibility for counteracting CSEC.
- Establish a specialized unit on juvenile issues in the Ministry of the Interior.
- Develop inter-agency mechanisms to combat and prevent CSEC.

⁹ ECPAT International, *Global Monitoring Report on the status of action against commercial sexual exploitation of children Ukraine – Second Edition, 2011*. Accessible at: http://www.ecpat.net/EI/Pdf/A4A_II/A4A2011_EU&CIS_UKRAINE_FINAL.pdf