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La Strada International (LSI) is a European NGO network comprising eight member organisations in Belarus, Bulgaria, Czech Republic, Macedonia (FYROM), Moldova, The Netherlands, Poland and Ukraine and an international secretariat based in Amsterdam, The Netherlands.

The overall aim of LSI is to prevent trafficking in human beings in Europe, in particular trafficking of women, and to protect the rights of trafficked persons. La Strada's philosophy, guiding its anti-trafficking work and its provision of services, is based on a human rights approach, demanding equal human rights for all human beings. The mission of LSI is to improve the position of women and to promote their universal rights, including the right to choose to emigrate and work abroad and to be protected from violence and abuse.

The report is devoted to the issue of human trafficking especially women and children in Ukraine.

Universal Periodical Review Report – report of non-governmental organisations for the UN Council on Human Trafficking in Ukraine

The report was prepared by The International Women’s Rights Centre “La Strada Ukraine” on behalf of La Strada International, which unites non-governmental organisations of eight countries that have extensive experience in combating human trafficking on both the national and international level, including monitoring of governmental policies in this field.

Legislation improvement:

1. In 2009-2011 the active involvement of legal services for combating human trafficking and providing assistance to victims was observed.

1.1. In September 2010 the Verkhovna Rada of Ukraine ratified the Council of Europe Convention on Action against Human Trafficking.

1.2. In September 2011 the Verkhovna Rada of Ukraine adopted the Law of Ukraine on “Combating Trafficking in Human Beings”.

1.3. At the end of 2011 a draft law on ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201 was submitted to the Verkhovna Rada of Ukraine.

1.4. On 7 November 2011 Ukraine signed the Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS No. 210

1.5. In February 2011 a memorandum between the governments of Ukraine and the U.S.A. on cooperation in combating human trafficking was signed.

2. The following issues should be noted when describing the Law of Ukraine on “Combating Trafficking in Human Beings”:

2.1. The purpose of the law is to identify ways of legislative regulation of combating human trafficking, to minimise its consequences through establishing appropriate institutional and legal frameworks on the status of people affected by human trafficking and the means of providing assistance to these people. The law determines: basic directions of state policy aimed at combating human trafficking; mandate of state executive authorities in combating trafficking in human beings; mechanisms for prevention and combating human trafficking, provision of assistance and protection to people affected by it, rights of trafficked persons who ask for help, principles of international cooperation in the area of combating human trafficking. The law defines the procedure for protection and repatriation of foreigners and stateless persons who are victims of trafficking in human beings on the territory of Ukraine, as well as specific principles for combating child trafficking.

2.2. It is important that the law defines agents of state policy for combating trafficking in human beings (Article 5): the Cabinet of Ministers of Ukraine, central state executive authorities, local state executive authorities, diplomatic institutions of Ukraine abroad, and institutions for assistance to victims of trafficking. In addition, measures aimed to prevent human trafficking will be implemented by local governments and, in case of consent, companies, institutions and organisations regardless of ownership forms, non-governmental organisations and citizens

2.3. The law contains a number of provisions related to the protection of trafficked persons. Thus, in order to render effective assistance and to protect the rights of trafficked persons, the National Mechanism for Interaction of the Agents for Combating Trafficking in Human Beings shall be established (Article 13). This is the National Referral Mechanism for trafficked persons. A person who identifies herself/himself as trafficked has the right to apply to the local state administration requesting the declaration of his/her status (Article 14). The status of a trafficked person is provided for a period up to two years (Article 15). A trafficked person is entitled to the following: personal security, respect (Article 16), receipt of free medical, psychological, social, legal and other required assistance; accommodation — should the victim request and does not have accommodation, he/she will be temporarily placed in an institution for assistance to traf-

ficked persons, for a period up to three months which, if necessary, may be extended by decision of the local state administration; compensation — in view of participation of the person as a plaintiff or a witness in criminal proceedings, compensation of economic or moral damages will be paid by the perpetrator in accordance with the procedure established by the Civil Code of Ukraine; one-time benefits; assistance in job placement, and exercise of the right to education and professional training etc.

2.4. The law states that public control on the implementation of legislation in the field of combating trafficking in human beings (Article 26) shall be carried out in the following ways: 1) correspondence on the activities of the institutions for combating trafficking in human beings according to the provisions of this law and other legislation; 2) observation of Ukraine's international commitments in the field of combating trafficking in human beings; and 3) provision of mandatory punishment for the crime of trafficking in human beings.

3. Since the adoption of the Law, until March 2012, the necessary legal acts have not yet been approved and the full functioning of the law is impossible.

3.1. The previous State Anti-Trafficking Programme (which was approved by the Cabinet of Ministers on 7 March 2007) ended in 2010. The Cabinet of Ministers approved the new Concept Programme in February 2012, but funding has not been allocated yet.

3.2. The draft Resolution of the Cabinet of Ministers on "Approval of the national mechanism of interaction of persons carrying out activities in combating human trafficking" was prepared in 2011, but by March 2012 it has still not been approved. The mandate of these persons, the mechanism of their interaction, and the procedures of providing assistance to trafficked persons should be defined in this document more specifically.

4. Analysis of the Law on "Combating Trafficking in Human Beings" shows that it does not fully comply with the Council of Europe Convention on Action against Trafficking in Human Beings.

4.1. The law does not set out provisions on payment of compensation to trafficked persons by the establishment of legislative or other measures to guarantee compensation to the victims, for instance, through the establishment of a compensation fund, as recommended in Article 15 of the Convention.

4.2. The concept of the reflection period for trafficked persons is not reflected in the text of the Law.

4.3. The legitimacy of the organisation and operation of the Unified State Register of human trafficking crimes (Article 6 of the Law) is doubtful as personal data of trafficked persons has possibly been collected and shared, which is against the principle of data protection and contributes to the revictimisation and discrimination of trafficked persons.

4.4. Despite the obligation set out in article 29 of the CoE Convention, a mechanism of independent monitoring of the state policy on combating trafficking in human beings is not foreseen by the law, nor is the institution of a National Rapporteur established. The same authorities that are responsible for policy implementation are responsible for their monitoring.

5. According to the provisions regulating the work of the centres that provide assistance to persons in difficult circumstances (crisis situations) the services can be ensured to persons up to 35 years of age.

6. Positive steps in improving the regulatory and legal framework of combating human trafficking have been made. Unfortunately, this process is slowed down due to the political situation in Ukraine, which is characterised by low level of coordination and absence of financing. For example, the Ministry of Science and Education, Youth and Sports, which lacked institutional capacity in the issue, is appointed by the government as the responsible body for the implementation of the memorandum on cooperation in combating trafficking in human being between

Ukraine and the United States. Moreover, no finances have been made available for the implementation of this Memorandum.

7. In 2009-2011 an expert group was established for the development of standards for provision of social services in the anti-trafficking field. This expert group developed the following draft documents of standards: on provision of information and prevention services in the area of combating human trafficking; on provision of social services for trafficked children; on provision of social services for people at risk of trafficking; on provision of social services for trafficked persons. The draft documents were opened for public discussion in summer 2011¹. They were discussed and further developed by all related Ministries. La Strada Ukraine is constantly lobbying for the adoption of these standards. Unfortunately, by March 2012 the standards were still to be approved by the Government.

The Institutional mechanisms for public policy implementation and the problems of coordination of the activity of combating human trafficking

8. A problematic issue in Ukraine is the weak coordination of activities.

8.1. The coordination in the sphere of combating human trafficking was carried out by the Interdepartmental Coordinating Council on Family, Gender Equality, Demographic Development and Combating Trafficking in Persons, established in 2007. It was criticised for low effectiveness when dealing with a number of different issues at the same time and lack of timely reactions on received appeals. In 2011-2012, in the absence of relevant State Programmes, the Coordinating Council has not been functioning.

8.2. The cooperation between state bodies and NGOs is not functioning properly. The effectiveness of such cooperation, which is in most cases initiated by civil society, is highly dependent on the personal attitude of a manager or civil servant.

9. In 2010-2011, problems arose because of the abolishment of an institutional mechanism for combating human trafficking due to an administrative reform. A presidential decree 9.12.2010 № 1085/2010 abolished the Ministry for Family, Youth and Sports, which was the central executive authority in this area. Therefore, in 2011 there was no competent central authority for combating human trafficking. Only in January 2012 was the Ministry of Social Policy identified as a coordinator of anti-trafficking activities by a resolution of the Cabinet of Ministers.

10. In 2011, in violation of the obligations of the UN Committee on the Elimination of Discrimination against Women, the information and reports on the status of issues and activities in combating human trafficking were not collected and analysed as a consequence of the lacking programme and responsible authorities. The Trafficking Information Management System (TIMS) is operated on a safe website; however, information on the use of this system and the status of trafficking in human beings, which started up at the level of the Council of Europe in May 2010, is absent.

Prevention work

11. Prevention work was performed by governmental institutions as well as non-governmental and international organisations.

11.1. The Ministry of Education and Science, Youth and Sports issued decree # 292 of 29 March 2011 on "Organisation of information and prevention work to counteract trafficking, exploitation and child abuse in 2011".

11.2. In the period 2009-2011, members of the national trainers' network (NTN) of the International Women's Rights Centre "La Strada-Ukraine" conducted 7150 events for 249.601 partici-

¹ http://www.la-strada.org.ua/ucp_mod_news_list_show_206.html

pants (73 235 specialists and 176 366 from at-risk groups). In the same period, 6139 consultations were provided through the National Toll-Free Hotline on Prevention of Human Trafficking. 11.3. Analysis of the school curricula was done. It showed space for including the issues of prevention of human trafficking, domestic violence and child abuse into them.

Law enforcement

12. Statistics show that the total number of criminal cases initiated by the law enforcement agencies of Ukraine according to Article 149 of the Criminal Code is decreasing. In 2011, 197 cases were opened (in 2010 – 257, in 2009 – 279). This is due to the malfunctioning of the relevant sections of the Ministry of Interior because of the reorganisation and reform inside the Ministry including reorganisation in the Department to combat crimes related to human trafficking.

12.1. Existing official data does not reflect the real extent of this phenomenon in Ukraine and only shows low efficiency of law enforcement activities in combating human trafficking².

12.2. Comparative statistics and observations of experts justify the conclusion that the judiciary branch of the government is neither efficient nor effective in court proceedings. Sentences are passed in less than a quarter of filed criminal cases (number of verdicts: 2009 – 71, 2010 – 85, 2011 – 46). The problem in court proceedings and sentencing criminals is a serious obstacle in the realisation of the rights of trafficked persons to a fair trial.

Provision of assistance to trafficked persons

13. Providing assistance to victims of human trafficking remains primarily the responsibility of international and non-governmental organisations.

13.1. During the reporting period, no government financing for assisting victims of trafficking was allocated. No shelters for the rehabilitation and social integration of women and girls who are affected by trafficking in human beings were established.

13.2. During the reporting period, 2672 trafficked persons received assistance in the framework of the IOM Kyiv reintegration programme in cooperation with a network of partner NGOs throughout Ukraine. According to their needs, they received legal consultations and representation during the trials, medical and psychological assistance, were provided with shelter, trainings, a small grants programme to support those trafficked persons who wish to start their own business, and other forms of assistance. The latest trends observed in Ukraine are: the increase of internal trafficking, increase of unidentified cases of trafficking for labour exploitation, increase of cases where Ukraine is a country of destination, increase of number of male victims of trafficking.

In 2009-2011, 240 children victim of trafficking in human being were assisted by IOM Kyiv (146 girls, 94 boys).

13.3. In 2009-2011, “La Strada-Ukraine” provided assistance to 295 people, who were affected by trafficking, violence, including domestic violence, in Ukraine and abroad, persons who found themselves in difficult circumstances, etc. As a result of the development of information and communication technologies and increase of Internet advertising, 1809 electronic consultations were provided in 2009-2011.

Recommendations

1. Develop and adopt laws to bring the legislation of Ukraine in line with the Council of Europe Convention on Action against Trafficking in Human Beings.

2. Adopt state standards for the provision of services and organisation of prevention work on combating human trafficking at the national level, developed in cooperation with NGOs and international organisations.

3. Establish governmental support for helplines that assist people at risk and those affected by human trafficking, which are run by non-governmental organisations.

² «Human rights in militia. 2010». – Kharkiv, Human Rights. – 2011. Author of the chapter – L.O.Hema

4. Create shelters and centres of assistance and support for persons who are affected by human trafficking.
5. Ensure the institutionalisation of counter-trafficking efforts through the introduction of training and retraining of specialists into the curriculum of the Ministry of Education and Science, Youth and Sports and other Ministries that have educational establishments in their system.
6. Include the topic of prevention of human trafficking as a basic element of school curricula.