



# 2017 Trafficking in Persons Report: Ukraine

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## UKRAINE: Tier 2

The Government of Ukraine does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Ukraine was upgraded to Tier 2. The government demonstrated increasing efforts by investigating, prosecuting, and convicting officials complicit in trafficking, increasing interagency coordination and training for government officials, and taking some steps to improve law enforcement efforts. The government secured slightly more convictions in 2016, ending a five-year downward trajectory. The government also improved its efforts to protect trafficking victims in Ukraine, increasing subsistence payments to victims and drafting legislation that would better protect foreign victims. However, the government did not meet the minimum standards in several key areas. It did not vigorously investigate and prosecute traffickers, initiating progressively fewer investigations and prosecutions for the last six years. Lax sentencing, likely aggravated by corruption, meant most convicted traffickers avoided imprisonment, which is inadequate to deter trafficking crimes and disproportionately low compared to the seriousness of the crime. Foreign donors and NGOs continued to fund and provide most victim services. International organizations continued to identify far greater numbers of victims than the government, indicating inadequate identification efforts by the government and a continuing lack of trust in the government's ability to protect victims and ensure their fair treatment. Ongoing Russian aggression continued to drain Ukrainian government resources, displacing close to two million people, and making a large population vulnerable to exploitation.

## RECOMMENDATIONS FOR UKRAINE

Vigorously investigate and prosecute trafficking offenses, including public officials complicit in trafficking crimes, and ensure convictions result in proportionate and dissuasive sentences; certify more victims to ensure they are afforded their rights under the trafficking law and modify the procedure for granting victim status to lessen the burden on victims to self-identify and divulge sensitive information; provide adequate resources for and fully implement the 2016-2020 national action plan; increase training for law enforcement, prosecutors, and judges in the investigation and prosecution of trafficking cases, particularly on forced labor, a victim-centered approach, and how to gather evidence outside of victims' testimony; develop victim/witness protection measures and take active measures to end intimidation of victims during legal procedures; increase training for officials on victim identification, particularly in proactive screening for labor trafficking and of vulnerable populations, such as women in prostitution, children in sex trafficking, foreign migrant workers, and internally displaced persons; increase law enforcement monitoring of recruitment firms engaged in fraudulent practices associated with exploitation; increase funding for services to support trafficking victims, including rehabilitation centers; increase cooperation with law enforcement officials in countries where Ukrainians are subjected to human trafficking; and harmonize the trafficking law and the Law on the Legal Status of Foreigners to ensure foreign victims are entitled to remain in the country and access to victim services.

## PROSECUTION

The government slightly increased law enforcement efforts and took action on official complicity. Article 149 of the criminal prohibits all forms of trafficking and prescribes penalties from three to 15 years imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The government drafted legislation that will better

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trafficking, 20 for forced involvement in criminal activity, three for trafficking of children, and two for forced begging. Authorities initiated prosecutions of 45 cases in 2016, compared to 59 cases in 2015. The government convicted 28 traffickers in 2016 under article 149 (25 in 2015), ending a five-year downward trajectory. Of the 26 convicted traffickers who were sentenced in 2016, 21 (81 percent) did not receive prison sentences, five received prison sentences (19 percent) which ranged from two to 10 years, and the government confiscated assets from two defendants; 20 of the 32 (62 percent) traffickers convicted in 2015 did not receive prison sentences, and six had property confiscated. The repeated issuance of suspended or significantly reduced sentences to convicted traffickers is indicative of weakness in government prosecution efforts. Experts noted law enforcement, prosecutors, and judges demonstrated limited understanding and capacity to identify and prosecute labor trafficking cases.

The government increased coordination among agencies engaged in anti-trafficking efforts and issued several directives prioritizing anti-trafficking work.

The prosecutor general issued directives that prioritized the use of surveillance resources for trafficking cases; authorized penalties for Office of the Prosecutor General officials complicit in trafficking; called for investigations of alleged complicity in other government offices; and mandated disciplinary penalties for investigators and prosecutors who downgraded trafficking offenses to lesser charges. Additional directives instructed prosecutors to insist on pretrial detention for alleged traffickers and called for stricter sentencing for trafficking offenses. Authorities collaborated with foreign governments on transnational investigations and extraditions, including Poland, Czechia, France, and Germany.

Official complicity and willful negligence have resulted in the abuse of children in state-run institutions and orphanages, who are especially vulnerable to trafficking. Institutional reforms in Ukraine over the past two years have led to widespread turnover in many government institutions, notably within the ranks of the national police and the judiciary. The recertification and restructuring of police units that took place during the reporting period included mandatory training and testing on human trafficking, with assistance from an international organization, and reduced the number of officers suspected of corruption. The government, in conjunction with international funding and partners, significantly increased training for judges, prosecutors, law enforcement, and other government officials. The government increased its law enforcement efforts against official complicity, compared to the previous reporting period during which it did not report any investigations, prosecutions, or convictions of public officials. The government began investigating and arresting several officials allegedly complicit in trafficking, including the commander of the Kyiv City police counter-trafficking unit. In addition, courts convicted two police officers and sentenced them to six months in prison; three police officers remained under house arrest pending trial. Authorities arrested a teacher at a government-run boarding school for orphans in Kharkiv who attempted to sell one of her students.

## PROTECTION

The government increased efforts in some areas of protection. An interagency working group submitted draft legislation that is intended to help ensure the safety of persons with disabilities from exploitation, improve procedures for establishing victim status, expand the network of victim service providers, and improve protections for foreign victims and stateless persons. The government continued to rely on international organizations and NGOs, with international donor funding, to identify victims and provide the vast majority of victim protection and assistance. The government increased identification through the national referral mechanism and identified 103 victims in 2016 (83 in 2015). In 2016, an international organization in Ukraine assisted 1,105 victims, compared with 699 in 2015. International organizations reported that the majority of the victims who received assistance were victims of labor trafficking. As was the case in the two prior years, law enforcement and other officials identified less than 10 percent of the victims referred to an international organization in 2016. Authorities approved 110 out of 124 applications requesting official victim status in 2016, compared to 83 out of 91 in 2015 and 27 out of 48 in 2014. The government's current procedure to identify victims primarily relies on the victims—often exiting traumatic situations—to self-report and provide evidence of their victimization; unless police and other government officials are sensitive to the hurdles victims face and adopt a victim-centered approach, many victims will refuse to go through the process. Although the law directs law enforcement officials to proactively identify trafficking victims, observers reported police did not display a willingness to screen individuals in prostitution for signs of trafficking. Experts report law enforcement officials often do not understand the international definition of labor trafficking and therefore do not adequately identify labor trafficking victims.

The government significantly increased its funding for victim assistance and anti-trafficking efforts during the reporting period. The government disbursed 98,800 hryvnia (\$3,659) to the national budget and 219,220 hryvnia (\$8,119) to local budgets for anti-

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government tripled the amount of its financial assistance payments to trafficking victims, raising it to 1,000 hryvnia (€177), three times the official subsistence level.

Ukraine's trafficking law outlines protection requirements for victims and entitles victims to receive free temporary housing at a government shelter, psychological assistance, medical services, employment counseling, and vocational training, regardless of whether a criminal case proceeds or the victim cooperates with law enforcement. Trafficking victims whom the government has granted official status are assigned a case management team, which provides referrals to care facilities, NGOs, or other services according to an individual plan. Some victims requiring shelter stayed at a rehabilitation center run by an international organization with funding from international donors, housed in a state-run hospital; the government has considered taking on responsibility for the center, but has not yet committed to doing so. Adult victims could also stay at government-run centers for socio-psychological assistance for up to 90 days and receive psychological and medical support, lodging, food, and legal assistance. The government increased the number of centers for socio-psychological assistance from 18 to 20 and opened 36 additional social services centers, bringing the total to 692. Observers reported the provision of assistance was problematic due to funding shortfalls and shortage of trained staff. Child victims could be accommodated in centers for socio-psychological rehabilitation of children for up to 12 months and receive social, medical, psychological, education, legal, and other types of assistance. The government, often in cooperation with international organizations, provided significantly more training for government officials on victim identification and assistance during the reporting period. The Ministry for Social Policy (MSP), in cooperation with an international organization, has developed an interactive e-learning module on the identification and referral of trafficking victims. The government reported it assisted in the repatriation of 15 citizens in 2016 to Ukraine who had been subjected to trafficking abroad: eight from Kuwait; two each from Lebanon, Cyprus, and Jordan; and one each from Malaysia and Poland.

Victims have the legal right to file civil suits for restitution, and courts ordered restitution payments for 79 trafficking victims in 2016. Various protective measures were legally available inside courtrooms for victims who testified at trial, but in practice, authorities rarely applied these measures and often did not treat trafficking victims serving as witnesses in a victim-sensitive manner. NGOs reported the government often did not provide legal assistance, other support, or protection to victims during criminal cases.

Officials asserted that illegal migrants are screened for indicators of trafficking, and migrants determined to be trafficking victims are offered official status and referrals to services. There were no reports the government punished or deported victims for crimes committed as a direct result of being subjected to trafficking; however, due to uneven screening, authorities may have detained, deported, or punished trafficking victims. There is no legal way for foreign victims to extend their stay, change legal residency, secure employment rights, or seek protection from being returned to countries where they face hardship or retribution. The government's interagency working group presented draft amendments to the legislature that would allow foreign victims to remain in Ukraine for extended periods and work legally in the country.

## PREVENTION

The government increased prevention efforts. The government allocated full funding of anti-trafficking programs in its 2017 budget, in accordance with its national action plan. Authorities coordinated with NGOs and international organizations, carrying out a wide range of awareness campaigns, including television programs, street advertising, public events, and community policing. National and regional educational institutions developed and implemented lectures and training sessions for students and teachers on victim identification and trafficking prevention. Authorities placed 40 billboards and distributed 4,000 flyers publicizing the government-run Counter-Trafficking and Migrant Advice Hotline, which assists over 20,000 persons annually.

Police conducted investigations of both formal and informal recruitment networks, resulting in the arrest and investigation of several members of criminal groups engaged in the fraudulent recruitment of Ukrainian citizens who were forced to smuggle drugs across borders. The State Labor Inspectorate added 190 labor inspectors to its force, but observers noted business inspections and oversight of compliance with labor laws remained inadequate, as the government extended a moratorium on labor inspections through December 2017, limiting the ability of police to proactively investigate small businesses. The MSP continued to maintain a list of licensed recruitment companies. The government conducted counter-trafficking pre-deployment trainings for Ukrainian troops assigned to multinational missions and provided anti-trafficking training for its diplomatic personnel. The government did not demonstrate specific efforts to reduce the demand for commercial sex acts or forced labor.