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2018 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 remained on Tier 2. The government demonstrated increasing efforts by investigating and prosecuting a greater number of trafficking cases, increasing coordination among interagency and civil society stakeholders, identifying more victims, providing more financial assistance to victims, opening additional socio-psychological centers to serve victims, and increasing training for government officials. However, the government did not meet the minimum standards in several key areas. Lax sentencing, likely aggravated by corruption, meant the majority of convicted traffickers avoided imprisonment, which was inadequate to deter trafficking. The moratorium on labor inspections hampered law enforcement investigations on labor trafficking cases. International organizations continued to identify far more 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. 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

Punish convicted traffickers with proportionate and dissuasive sentences; clearly define administrative chains of responsibility and competencies of service providers throughout the decentralization process to minimize disruption in the processes of identification, referral, and assistance to trafficking victims; vigorously investigate and prosecute trafficking offenses, including public officials complicit in trafficking crimes; 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; increase law enforcement monitoring of recruitment firms engaged in fraudulent practices associated with exploitation; continue to 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; enact legislation to strengthen protections for foreign victims; continue to fund services to support trafficking victims, including rehabilitation centers; and increase cooperation with law enforcement officials in countries where Ukrainians are subjected to human trafficking.

PROSECUTION

The government increased law enforcement efforts. Article 149 of the criminal code criminalized sex and labor trafficking and prescribed penalties of three to eight years imprisonment, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. Law enforcement investigated 346 trafficking offenses in 2017, compared with 112 in 2016. These included 142 instances of sex trafficking, 17 for labor trafficking, 163 for forced involvement in criminal activity, and six for forced begging. Authorities initiated prosecutions of 66 cases in court in 2017,

compared to 45 cases in 2016. The government convicted 23 traffickers in 2017 under article 149, a slight decrease from 28 in 2016, and the lowest in six years. Of the 23 convicted traffickers sentenced in 2017, only seven (30 percent) received prison sentences, which ranged from three to five years, and the government confiscated assets from two defendants; in 2016, only five of 28 (18 percent) convicted traffickers received prison sentences. The national police created a department to address abuses of migrant workers abroad to assist in trafficking investigations. It also established an analytics department to improve the operative analysis of available crime data, to include trafficking. The Border Guard Service reported that due to cooperation with the police, they were able to stop 20 cross-border trafficking channels. Authorities collaborated with foreign governments on transnational investigations and extraditions, including Moldova, Russia, Turkey, Poland, Netherlands, Belarus, France, Greece, and Lithuania.

Official complicity and willful negligence resulted in the abuse of children in state-run institutions and orphanages, who were especially vulnerable to trafficking. Institutional reforms in Ukraine over the past three years 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 continued during the reporting period and included mandatory training and testing on 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, increased training for judges, prosecutors, law enforcement, and other government officials. The government reported investigating and arresting several officials allegedly complicit in trafficking; however, there were no new prosecutions or convictions. Several high-profile cases remained pending with the court, including the former commander of the Kyiv City police counter-trafficking unit, three police officers, and 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. The Cabinet of Ministers introduced draft legislation intended to increase 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 legislation remained pending in Parliament at the close of the reporting period. The government significantly increased identification through the national referral mechanism. The police identified 349 victims in 2017 (103 in 2016). 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. In 2017, an international organization in Ukraine assisted 1,256 victims, compared with 1,105 in 2016. International organizations and the government reported the majority of identified victims were subjected to labor exploitation. Authorities approved 195 of 273 applications requesting official victim status in 2017, compared to 110 of 124 in 2016 and 83 of 91 in 2015. Of the 78 cases not approved in 2017, 34 were refused and 41 applications were incomplete—the other cases remained pending. The government increased cooperation with NGOs and waived in-person interview requirements to grant official victim status to four Ukrainians incarcerated abroad for actions committed as a result of being trafficked, which resulted in their release and repatriation. Victims not requiring specialized services may have chosen to not pursue official victim status. The government increased efforts on proactive victim identification and held national workshops with stakeholders to improve cooperation on victim identification within the context of the national referral mechanism. Ongoing decentralization reforms obscured local communities' chains of responsibility for decisions regarding provision of key social services, including identifying, referring, and assisting trafficking victims. The law directed law enforcement officials to proactively identify trafficking victims; however, individuals in prostitution were not always screened for signs of trafficking. Some victims trafficked for prostitution may have been subjected to administrative charges.

The government disbursed 98,800 hryvnia (\$3,510) to the national budget and 219,220 hryvnia (\$7,790) to local budgets for anti-trafficking measures in 2017, maintaining allocations from the previous year. State authorities allocated 1.7 million hryvnia (\$61,330) for the implementation of the national action plan over the next four years—47 percent above what is called for in the plan. The government increased the amount of financial assistance provided to each officially recognized victim, and the amounts provided were greater than the official subsistence level. Ukraine's trafficking law entitled victims to housing at a government shelter, psychological assistance, medical services, employment counseling, and vocational training, regardless of whether a criminal case proceeded or the victim cooperated with law enforcement. Authorities assigned victims with official status a case management team, which provided referrals to care facilities, NGOs, or other services according to an individualized 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. 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 20 to 21 and maintained 692 additional social services centers. Observers reported the provision of assistance was problematic due to funding shortfalls and high turnover of trained staff.

Authorities could accommodate child victims in centers for socio-psychological rehabilitation of children for up to 12 months and administer 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 than last year. The Ministry for Social Policy (MSP), in cooperation with an international organization, implemented an interactive e-learning module on the identification and referral of trafficking victims. The government reported it assisted in the repatriation of nine Ukrainian victims from Armenia, Azerbaijan, Cyprus, Georgia, and Turkey.

Victims had the legal right to file civil suits for restitution, and courts ordered restitution payments for 24 trafficking victims in 2017, compared to 79 in 2016. Various protective measures were legally available inside courtrooms for victims who testified at trial, but in practice, it is not clear that authorities consistently applied these measures and treated trafficking victims in a victim-sensitive manner. The government reported changing personal data of victims for security purposes in four cases in 2017, as opposed to two in 2016. NGOs reported the government often did not provide legal assistance or other support to victims during criminal cases.

Officials reported screening illegal migrants for indicators of trafficking. Authorities did not recognize any foreign victims in 2017, but international organizations reported identifying three victims from Moldova, Russia, and Uzbekistan. Foreign victims were entitled to the same benefits as Ukrainian citizens. Legislation that would allow foreign victims to remain in Ukraine for extended periods and work legally in the country remained pending with the government. There was no legal way for foreign victims to extend their stay, change legal residency, secure employment rights, or seek protection from deportation to countries where they would face hardship or retribution. There were no reports the government penalized victims for crimes committed as a direct result of being subjected to trafficking; however, due to uneven screening, it is possible that authorities may have detained, deported, or punished trafficking victims.

PREVENTION

The government increased prevention efforts. Authorities, in coordination with NGOs and international organizations, carried out a wide range of awareness campaigns, including television programs, street advertising, public events, and community policing. The Ministry of Education and Science endorsed two mandatory extracurricular courses for teachers. In summer 2017, authorities, with the support of an international organization, expanded a 2016 informational campaign on child begging to cover two additional cities, which also established a cooperation mechanism between law enforcement and child services. In July 2017, the government adopted a Strategy of State Migration Policy with the goal of raising awareness on knowledge of rights while working abroad. A Counter Trafficking and Migrant Advice Hotline was operated by a local NGO and funded by international donors. In 2017, the hotline received 19,444 calls; 80 potential victims were identified and referred to responsible local agencies and NGOs for assistance.

Police conducted investigations of formal and informal recruitment networks, including companies advertising jobs abroad, and participated with other stakeholders to raise awareness about known recruitment schemes. The MSP continued to maintain a list of licensed recruitment companies. The government extended a moratorium on labor inspections through December 2018 but allowed inspections when credible information of trafficking existed. 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.

TRAFFICKING PROFILE

As reported over the past five years, Ukraine is a source, transit, and destination country for men, women, and children predominantly subjected to forced labor and, to a lesser extent, to sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine as well as in Russia, Poland, Moldova, and other parts of Europe, Kazakhstan, and the Middle East. Some Ukrainian children and vulnerable adults are subjected to forced begging. A small number of foreign nationals, including those from Moldova, Russia, and Uzbekistan are subjected to forced labor in Ukraine. Victims trafficked in Ukraine have been exploited in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging; experts report the number of foreign victims in Ukraine has fallen dramatically since the beginning of hostilities in eastern Ukraine. Smuggled migrants transiting Ukraine are vulnerable to human trafficking. The approximately 82,000-200,000 children institutionalized in state-run orphanages were especially vulnerable to trafficking. Officials of several

state-run institutions and orphanages were allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.

Fueled by Russian aggression, the conflict in eastern Ukraine has displaced nearly two million people, and this population is especially vulnerable to exploitation. In areas controlled by the Russia-led forces, the situation has become particularly challenging. Employment options are limited and Russia's proxy "authorities" have restricted international humanitarian aid that would help meet civilian needs. Women and girls from conflict-affected areas have reportedly been kidnapped for the purposes of sex and labor trafficking in Ukraine and Russia. Internally displaced persons were subjected to trafficking, and some Ukrainians were subjected to forced labor on territory not under government control, often via kidnapping, torture, and extortion. The large, displaced population and economic crisis has increased vulnerability of Ukrainians to trafficking throughout the country. International experts reported the demographics of Ukrainian trafficking victims has shifted since the beginning of the conflict to include more urban, younger, and male victims subjected increasingly to forced labor and criminality, such as drug trafficking and couriers. Russia's proxies in eastern Ukraine issued decrees calling for the conscription of minors and Russia-led forces used children as soldiers, informants, and human shields. A civil society organization stated that it recorded 85 cases of involvement of children in illegal armed groups in areas outside of Ukraine's control; it reported it was able to identify names, ages, forms of recruitment, children's duties, and the identities of recruiters. According to the organization, children took direct and indirect part in the armed conflict; they performed armed duty at checkpoints as fighters and served as guards, mailpersons, and secretaries. The OSCE Special Monitoring Mission in Ukraine reported children as young as 15 took part in active combat as part of Russia-led forces. Children ages 15 to 17 were actively recruited to participate in militarized youth groups that taught children to carry and use weapons. A Ukrainian government official reported that one children's battalion associated with this training program, the St. George the Victor Battalion, may have included children as young as 12 years. The recruitment of children by militant groups took place on territory not under the control of the government and in areas where the government was unable to enforce national prohibitions against the use of children in armed conflict.

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