



## **Combating trafficking in human beings**

Ukraine  
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Nations Organization

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### **Coalition of non-governmental organizations:**

- La Strada International (the Netherlands)
- CSO “La Strada-Ukraine”<sup>1</sup>
- NGO “Democracy Development Center”

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<sup>1</sup> Until February 2016 – The International Women’s Rights Center “La Strada-Ukraine”. Renamed in compliance with the requirements of the Law of Ukraine “On Non-Governmental Organizations”

The report has been prepared by the coalition of La Strada International (LSI), La Strada Ukraine (LSU), Ukrainian Democracy Development Centre, NGOs with over two decades of experience in the sphere of combating trafficking in human beings (THB) and providing assistance to victims of this crime. The organisation further build extensive experience in monitoring human rights violation and related state policies. The organizations which have prepared the report cooperate with one another and with other civil society organizations. They are members of networks, such as The Global Alliance against Traffic in Women, the Platform for International Cooperation on Undocumented Migrants (PICUM), the Association for Women's Rights in Development (AWID), ECPAT International and the All-Ukrainian Network against Commercial Sexual Exploitation of Children and others.

The information in the report has been presented pursuant to the recommendations, provided by the states, which are members of the UN Human Rights Council, grouped into two parts – “Combating trafficking in persons” (recommendations after the second cycle Nos. 97.49, 97.80, 97.81, 97.82, 97.83, 97.84, 97.85) and “Combating trafficking in children and sexual exploitation of children” (recommendations after the second cycle Nos. 97.81, 97.83, 97.12, 97.22, 97.29, 97.41, 97.86). The report is concluded with the recommendations, relevant for the Government of Ukraine.

### **1. Combating trafficking in human beings**

The problem of trafficking in human beings is relevant for Ukraine – a country of origin, transit, and destination for victims of different forms of human trafficking. Along with trafficking for sexual exploitation, labour exploitation is extended over the last years (related with exploitation in agricultural work and construction and involuntary beggary). Victims of trafficking for labour exploitation are usually men of active working age or persons with visible disabilities without permanent residence.

A new way of recruiting has become a suggestion of registering the status of a refugee. In 2016 cases of human trafficking were registered with the purpose of involvement in criminal activity, in particular, in the Russian Federation, the major countries, where Ukrainian citizens are exploited. Other countries include Turkey, Poland, Germany, Israel, Greece, People's Republic of China, UAE, Ukraine. For the most part, the current national legislation ensures the protection of rights of victims of THB, but there are some problems with the enforcement of the law.

After the annexation of Crimea and occupation of some territories of Donetsk and Luhansk regions, internally displaced persons (IDPs) became more vulnerable for exploitation and abuse and a risk group for THB.<sup>2</sup> A survey, conducted by LSU in 2014, demonstrated that 19% of IDPs are aware of cases when IDPs were in a situation of human trafficking, 10.8% of IDPs intended to seek employment abroad, 7.8% of IDPs are willing to work under any conditions.<sup>3</sup>

There were reported calls to the National Toll Free Hotline on Prevention of Human Trafficking, Domestic Violence, and Gender Discrimination (NHL) about the facts of human trafficking in the temporary occupied and annexed territories (TOT) of Ukraine, including. There is a problem with registering and investigating these crimes in the TOT. There is a need for closer attention of the OSCE Special Monitoring Mission to Ukraine for the occurrence of human trafficking in TOT and well as a need for training of mission monitors on the identification of such cases and their primary registration.

#### ***97.49. Adopt plans and programs related to trafficking in persons (Iraq);***

In 2012, the Ministry of Social Policy (MSP) was made the national coordinating body in the sphere of combating THB. Efficient state policy on this issue was one of the prerequisites for

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<sup>2</sup> <http://www.msp.gov.ua/news/12682.html>

<sup>3</sup> [http://www.la-strada.org.ua/ucp\\_mod\\_library\\_view\\_307.html](http://www.la-strada.org.ua/ucp_mod_library_view_307.html)

the EU liberalization of the visa regime for Ukraine. In 2012, the first State social program of combating TIHB covering the period up to 2015 was adopted (Resolution of the Cabinet of Ministers, 21.03. 2012 No. 350).

The National Human Rights Strategy (NHRS) (Presidential Decree, 25.08.2015 No.501/2015<sup>4</sup>) and the Action plan for its implementation covering the period up to 2020 (Resolution of the CoM, 23.11.2015 No.1393-p.)<sup>5</sup>, contain various tasks, dedicated to the issues of combating THB and slavery. However, according to findings of NGOs and the office of the Ombudsman, the level of implementing the Action plan for the implementation of the NHRS remains low - only up to 25% of the planned actions have been implemented so far.

In 2016, the Government adopted the next Anti-Trafficking State Program till 2020<sup>6</sup> (the Resolution of the CoM, 24.02. 2016 No. 111).

In particular, the current Action plan envisages amending the Law of Ukraine “On Combating TIHB”, “On Free Legal Assistance”, “On Legal Status of Foreigners and Persons without Citizenship” and other acts in the sphere of TIHB in 2016-2018 with the purpose of enhancing the protection of victims; elaborating and adopting indicators of detecting victims of THB in 2017; conducting continuous studies, upgrading training courses, etc. No amendments were made in the abovementioned normative and regulatory acts in 2016.

***97.80. Allocate adequate resources to ensure the effective implementation of the Combating Trafficking in Persons Act of 2011. (Philippines)***

**The status of the implementation for this clause is partial.**

There is inadequate allocation of resources for the effective implementation of the Combating Trafficking in Persons Act, adopted in 2011. In 2013, UAH 60 thousand (about EUR 3,715) were allocated from the State Budget of Ukraine for the implementation of the measures of the State program of combating THB; UAH 44.9 thousand were paid as one-off financial aid to victims of TIHB (EUR 2,780, paid persons with the status of victims of THB, 34 persons).

In 2013, UAH 214,89 thousand (EUR 13,300) were used from the local budgets and in 2014, UAH 607,050 were allocated (EUR 37,570).

In 2014, UAH 82.1 thousand (EUR 5,080) were allocated from the State Budget for the implementation of the measures of the State program, and UAH 240,9 thousand (EUR 15 thousand) were allocated to be paid as one-off financial aid to persons with the registered status of human trafficking victims.

As stated in the Anti-Trafficking Program till 2020, the approximate amount of state budget financing was UAH 98,8 thousand in 2016, UAH 98,8 thousand in 2017, from the local budgets in 2016 – UAH 219,22 thousand, in 2017 – UAH 219,22 thousand, from other sources in 2016 – UAH 7,126 million, in 2017 – UAH 6,966 million. The information about the actual amount of allocated state budget finances is not freely available.

Previous programs, aimed at combating TIHB, are financed with international technical assistance of international and non-governmental organizations as well as charitable foundations.

At the same time, there are no methods of estimating the whole scope of finances spent for anti-trafficking activity. The budget for staff salaries, technical support, training, etc. of anti-trafficking departments/sections is not included in the whole calculations of funds spent for anti-trafficking activity.

***97.81. To step up the national efforts in the field of trafficking in persons through a victim-oriented approach that attaches special focus on the protection of children from abuse and sexual exploitation (Egypt)***

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<sup>4</sup> <http://zakon.rada.gov.ua/laws/show/501/2015>

<sup>5</sup> <http://zakon.rada.gov.ua/laws/show/1393-2015-%D1%80>

<sup>6</sup> <http://zakon.rada.gov.ua/laws/show/111-2016-%D0%BF>

**97.82. Continue efforts in combating human trafficking and provide the necessary assistance to victims of trafficking (Lithuania)**

**97.83. Redouble the efforts in regard to combating trafficking in persons, particularly in combating the trafficking of children for sexual and labor exploitation, including through addressing the root causes of trafficking, establishing additional shelters for rehabilitation and social integration of victims and ensuring systematic investigation, prosecution and punishment of traffickers (Indonesia)**

In 2013, the MSP created a working group (WG) to improve the legal framework for counter trafficking. The work yielded the elaboration of the State program of combating THB for 2016–2020 and the draft changes to current legislation on combating THB.

In 2017, a draft Law of Ukraine “On Introducing Changes to Some Legislative Acts of Ukraine on Enhanced Combating of Human Trafficking and Protection of Victims of Human Trafficking”, elaborated by the WG, was submitted to the Verkhovna Rada (No 6125, 23.02.2017). The draft law envisages: adjusting the definition of “trafficking in human beings” to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; expanding the circle of the parties to the National Referral Mechanism (NRM), which take measures in the sphere of combating THB; measures, taken by the central executive authorities in order to protect women, girls, men, and boys with disabilities from sexual violence and exploitation; improving the procedure of establishing the status of a person, who has suffered from THB; expanding the network of institutions to provide assistance to victims of THB etc.

Every year there are more consultations on the issues of combating THB, provided on the National hotline. Compared to 2015, in 2016 there was a 1.5-fold increase.

Victims of THB are deprived of their right for free legal assistance, as the category “victims of THB” is not envisaged in Article 14 of the Law of Ukraine “On Free Legal Assistance”.

The majority of HIV-infections in Ukraine are related to the provision of sex-services. Victims of THB have fewer chances of obtaining medical and psychological services, care and support if they have the status of an HIV-positive person.

The representatives of law enforcement bodies do not always inform victims of THB about their right for compensation of damage. There is a need of providing victims of THB with qualified free legal assistance at all the stages of criminal investigation of criminals, which has not been stated in the legal framework of Ukraine yet.

The mass media are not consistent in highlighting current problems of THB and modern ways of recruiting.

#### *Shelters for victims of THB.*

After the adoption of the Regulations on the rehabilitation centers for victims of TIHB in 2003<sup>7</sup>, there has been no actions taken to organize respective centers at the governmental level; as of now there are no specialized state-financed shelters for this category of persons in Ukraine. No shelters for victims of TIHB have been established in 2013–2016.

As of March 20, 2017, there are centers of social and psychological assistance which also accept victims of TIHB in 19 regions of Ukraine only. Center from Donetsk was transferred to the safe territory. After the annexation of Crimea and occupation of some territories of Donetsk and Luhansk regions by the Russian Federation, these centers mostly provide assistance to IDPs.

The problematic issues to be solved are as follows: the absence of such centers in *Vinnitsia, Kyiv, Luhansk, Poltava, Kharkiv, Kherson regions*; the location of such institutions (*mostly they function in the regional centers*); victims of THB are just one category of people, provided assistance in these centers<sup>8</sup>; the shortage of vacant places in these institutions<sup>9</sup>; limitations re-

<sup>7</sup> <http://zakon3.rada.gov.ua/laws/show/987-2003-%D0%BF>

<sup>8</sup> Clause 1 of the Typical provisions on the center of social and psychological assistance, approved by the Resolution of the CoM, 12.05.2004, No. 608.

<sup>9</sup> Resolution of the CoM, 12.052004, No. 608. The maximal period of a person’s staying in the center is 90 days.

garding health condition and age of clients of such institutions (*persons with considerable health problems and people over 35 cannot live in such centers*); ensuring the safety of women in these centers, etc.

LSU sent letters to the heads of regions, which do not have any institutions to support victims, stating the necessity of establishing them<sup>10</sup>.

It is utterly necessary to introduce changes to a number of normative and regulatory acts on providing assistance to victims of THB, in particular, the regulations, establishing typical provisions on the centers of social and psychological assistance and centers of social and psychological rehabilitation of children.

Assistance to victims of THB is supported by international organizations (IO) – OSCE Project Co-ordinator and International Organization for Migration (IOM) with active involvement of NGOs. The NRM in all the regions is not efficient enough due to the unavailability of local institutional and financial capability to provide services to the victims. With the support of the IOM the rehabilitation center for victims of THB was established in Kyiv. The shelters, organized by NGOs, are not financed by the state.

The relevant problems are as follows:

- lack of detection and identification of victims of THB;
- a great number of refusals in obtaining the status of a victim of THB;
- difficulty of obtaining the status of a victim of THB for foreigners;
- unavailability of relevant statistics on the number of victims of THB, and the difference in statistical information, collected by different state structures and IOs.

*In 2013–2014, the Mission of IOM in Ukraine along with partner NGOs provided assistance to 1,832 victims of THB (929 persons in 2013, 903 – in 2014). During the same two years, the MSP granted the status of a victim of THB to 68 persons (41 – 2013, 27 – 2014). 106 applications were received (58 – 2013, 48 – 2014). In 2016, the MSP granted the status of a victim of THB to 110 citizens.*

- unavailability of an actual mechanism of the state social demand for services from NGOs, working in the sphere of combating THB at the national level and in most regions;
- problems with protecting victims of THB, participating in criminal proceedings.

*In 2016, criminal investigators used safety measures in the form of changing the personal information of only 2 people in their criminal proceedings on human trafficking.*

- inefficient coordination of national activity in combating human trafficking;
- unavailability of periodic independent estimations and report on state policy and compliance in the sphere of human trafficking as an instrument of evaluating the impact of measures and planning future policy and measures;
- limited human resources and turnover of specialists, working in the sphere of combating human trafficking at all the levels of authority;
- impossibility of registering crimes in temporarily uncontrolled territories;
- complexity of overcoming the consequences of the military conflict in the East of Ukraine.

#### *Ensuring systematic investigation, criminal prosecution and punishment of THB*

115 crimes, related to THB, were detected in 2016. There is inefficient work of the departments for combating crimes, related to THB, as on average two specialists detect one crime per year, which is conditioned, *inter alia*, by involving the specialists of these departments in investigating crimes, not related to their specific profile of activity.

There are insufficient efforts in investigating crimes, committed by officials of the institutions for children, where the latter are under the state care, in which such officials are co-conspirators in a crime or guilty of gross negligence regarding the children.

There is a worrying status of criminal proceedings of cases, related to THB. Due to ineffi-

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<sup>10</sup>[http://www.la-strada.org.ua/ucp\\_mod\\_news\\_list\\_show\\_554.html](http://www.la-strada.org.ua/ucp_mod_news_list_show_554.html)

cient work of investigators, out of 222 offenses under investigation in 2016 only in 65 cases the charges were served, which is almost twice as less compared to 2015. In 2016, less than 40% (45) of crimes were solved. Reasonable terms of investigating criminal offenses are not ensured, the cases are investigated for more than half a year.

There are alleged unlawful decisions on terminating criminal proceedings. The prosecutors abolished 6 such decisions and renewed pretrial investigation regarding 5 criminal proceedings.

There is a great need in specialization of investigators and heads of proceedings, methodological provisions for their activity, basic and further training, including the involvement of NGOs.

There is a need for upgrading the level of coordination between the actions of law enforcement bodies with the purpose of detecting, preventing, suppressing, and solving the mentioned criminal offenses, as well as cooperation with competent bodies of other countries and NGOs<sup>11</sup>.

According to the data of the National Police (NP), in 2016 there were 6 facts of requalification of criminal proceedings from Article 149 of the CC to other crimes. This data are not summarized by the statistical reports of the NP at the permanent basis, as only police investigators, investigators of the prosecutor's office and judges can requalify the proceedings.

Low efficiency in solving the crimes, related to THB, prosecution of criminals and restoration of victims' rights, is also related to poor cooperation of law enforcement bodies and the Offices of Children's Services, centers of social services for families, children and youth, offices of social protection for population, state and local authorities, etc. to enhance the preventative work with population regarding THB, consideration of the connection between the crime of THB and vulnerable status of some groups of people.

*It is problematic to hold human traffickers liable.* The gap between the registered cases and sentences is increasing. In 2013 – 64 sentences, in 2014 – only 19.

The state of supporting public prosecution also requires changes. Sometimes prosecutors take a procedural position, which does not correspond to the severity of the crime, thus the punishment of over 81% of persons, convicted for TB, was not related to imprisonment, and mostly this was due to the prosecutors' initiative or according to the rulings of judges at the prosecutors' consent.

From 2012 till 2016 (6 months) the courts of Ukraine convicted 252 persons for THB, but only 119 of them were imprisoned for some time. In addition, during the mentioned period 123 persons were released on probation (Article 75 of the CC) and the punishment according to Article 69 of the CC (less strict punishment compared to the Law) was imposed on 80 persons.

In 2016, LSU investigated the court proceedings of 2015 related to Article 149 of the CC "Human trafficking or other unlawful agreement regarding human beings"<sup>12</sup>. In 6 out of 11 cases the court released the accused persons on probation, using the provisions of Article 75 of the CC. In 5 cases the court came to the conclusion that the correction of a person was impossible without isolating from the society and convicted them to actual imprisonment. The term of imprisonment is from 5 to 7 years with or without the confiscation of property. One of the ways of solving the mentioned issue will be the summary of court practice regarding court rulings on cases of THB and training of judges.

***97.84. Give adequate training on the Law on combating trafficking in human beings to all those involved in the fight against human trafficking, especially border guards (Portugal)***

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<sup>11</sup> Resolution of the interdepartmental meeting of law enforcement bodies and other parties of combating crime, organized by the Prosecutor General's Office of Ukraine on February 24, 2017.

<sup>12</sup> <http://www.reyestr.court.gov.ua>. The number of sentences in the Unified State Register of Court Rulings is 18, in 3 of them the disclosure of information is prohibited according to the Law of Ukraine "On Access to Court Rulings" (c. 4 Art. 7).

The topics of combating THB are partially included into the system of training and upgrading the qualification of specialists. The training is conducted at the Institute of Advanced Training for specialists of state authorities, working in the centers of social services for family, children, and youth, the National Academy of the Prosecutor's Office of Ukraine, the National Academy of Internal Affairs, the Kharkiv National University of Internal Affairs, the Institute of Postgraduate Study of NAIA, some higher educational institutions and institutes of postgraduate pedagogic education, training teachers and social service workers.

New challenges due to the war in Ukraine, administrative reform, considerable flow of human resources and implementation of the provisions of the Combating Trafficking in Persons Act increased the need of training specialists, which is not met in the full scope.

There is utmost relevance of including the topic of combating THB as a mandatory one for the whole system of training and advanced training of all the specialists, working in this sphere.

Enhancing the professional level of policemen, prosecutors, attorneys, judges in the issues of combating THB, training of specialists of the departments for human trafficking-related crime control are among the measures, included in the Action plan for implementation of the NHRS. The topics of combating THB are included as a mandatory component of the training of new patrol police officers of the NP. These trainings are conducted mostly by specialists of NGOs and IOs.

In 2013, LSU together with the MSP conducted 10 trainings for about 600 specialists on the issues of implementing standards of providing services to victims of THB.

In 2013-2016, the National Training Network of LSU conducted 4,490 events on the issues of combating THB for representatives of state authorities, risk groups, schoolchildren and students.

The MSP in cooperation with the OSCE Project Co-ordinator in Ukraine and the Mission of IOM in Ukraine conduct trainings in the framework of expanding the NRM.

***97.85. Continue the efforts aimed at fighting trafficking in persons, particularly children and women, and at ensuring compensation and rehabilitation for trafficking victims (Algeria);***

LSU analyzed the court rulings in criminal cases related to Article 149 of the CrC "Human trafficking or any other unlawful agreement regarding human beings" in 2015.

After the analysis of the mentioned rulings, the following conclusions may be drawn.

1. In most cases the crime is of transnational nature, i.e. it is prepared in the territory of Ukraine, while committed in another country<sup>13</sup>, also the persons, committing this crime, are citizens of different countries and it is extremely hard to identify them.

2. In addition, there are cases of internal THB<sup>14</sup>. In one case a woman was actually trafficked to a man, as she had not paid back the borrowed money.

3. One of the analyzed rulings was related to THB related to a child, sold by her mother. The reasons of her decision were as follows: low welfare of the woman, the presence of another child, inadequate living conditions.

The reasons for women to become victims of THB, are as follows: coincidence of complicated family and financial circumstances, unavailability of a job and place of residence, presence of children and the need for a mother to provide for them, presence of sick parents, personal sickness and the need of treatment, physical disabilities, aggravating the possibility of finding a normal job. It should be noted that some women, forced to agree to unacceptable offers, are displaced persons in complicated life situations (with no work and accommodation) due to the ongoing antiterrorist operation in their native places. This was found to be true for 4 out of 29 identified victims.

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<sup>13</sup>The following countries were mentioned in the analyzed rulings: Italy, Israel, Germany, Russian Federation, UAE, Sri Lanka, China, Switzerland.

<sup>14</sup>Beggary (case No. 759/16836/14-k), providing services of sexual nature (case No. 314/4308/15-k).

In most cases, trafficking in women was aimed at using them in the sphere of sexual services (9 cases out of 11)<sup>15</sup>. One case was related to a woman being used for beggary. In 9 cases, related to trafficking in women for sexual exploitation, 29 victims were identified, and 16 of them were aware that they would provide sexual services, to which they consented, as they had a great need for finances due to different life circumstances.

Violence was used against all women who were victims of THB, namely: limitation of movement, inflicting physical pain (beating), control of finances, psychological pressure, threats, forced provision of services to many men, working for 24 hours, unavailability of medical aid.

In 6 out of 11 analyzed cases the court released the accused persons from punishment on probation, using the provisions of Article 75 of the CC. In the remaining 5 cases the court came to the conclusion that the correction of a person was impossible without isolating from the society and convicted them to actual imprisonment. The term of imprisonment is from 5 to 7 years with or without the confiscation of property.

It is noteworthy to mention the measure of precaution, taken in these cases regarding the persons, accused of THB or any other unlawful agreement related to human beings, during pre-trial and trial investigation. In 2 out of 11 analyzed rulings it was indicated that a measure of precaution, not related to holding in custody, was applied to a person, namely, house arrest; in one case the bail was used for the accused; in one case a written undertaking not to leave the place was used for the accused; in 3 cases, personal commitment was chosen as the measure of precaution; in 5 cases the measure of precaution was holding the accused in custody.

## **2. Combating trafficking in children and commercial sexual exploitation of children**

### ***97.12. Take further measures and accede to The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption (Ireland);***

As of March 2017, The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption was not ratified.

Since 2001, the Verkhovna Rada considered the issue of Ukraine's acceding to The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption, but every time the draft laws were not adopted, were revoked or sent for finalization.

### ***97.22. Consider bringing national legislation relating to trafficking in and sale of children in line with the Optional Protocol to CRC on the sale of children, child prostitution and child pornography (Slovenia);***

The Optional Protocol to the CRC on the sale of children, child prostitution and child pornography was ratified by the Law of Ukraine No. 716 03.04. 2003.

In 2009, with the support of the UNICEF, LSU conducted the survey regarding the compliance of the national legislation with the provisions of the Optional Protocol to the CRC on the rights of a child on the sale of children, child prostitution and child pornography<sup>16</sup>. The recommendations were elaborated according to the results of the survey, in particular: to set punishment for involving children into prostitution and to introduce punishment for purchasing services from a child; to set punishment for involving children in the production and distribution of pornography commodities; to elaborate methodological recommendations for law enforcement employees, children safeguarding offices, health care and educational bodies regarding psychological and social aspects of working with children, who suffered from trafficking in children or prostitution of children. The suggested changes have not been introduced into the legislation.

Pursuant to the closing statements of the UN CRC<sup>17</sup>, the draft law "On introducing changes to some laws of Ukraine regarding the protection of children from sexual abuse and sexual ex-

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<sup>15</sup>As for a male, his exploitation was in the form of unlawful extraction of internal organs and beggary.

<sup>16</sup> [http://www.la-strada.org.ua/ucp\\_mod\\_library\\_view\\_18.html](http://www.la-strada.org.ua/ucp_mod_library_view_18.html)

<sup>17</sup> [https://www.unicef.org/ukraine/UN\\_CRC\\_ConcludingObservations\\_Ukr.pdf](https://www.unicef.org/ukraine/UN_CRC_ConcludingObservations_Ukr.pdf)



ploitation” in the part of rehabilitation of children, involved in prostitution, was elaborated. As of March 20, 2017, this draft has not been submitted for the consideration of the CoM and the Verkhovna Rada.

**97.29. Enact legislation which clearly prohibits child prostitution and other forms of sexual exploitation, consistently with the international obligations undertaken by the country, bearing in mind that the Lanzarote Convention will enter into force as regards Ukraine on December 1, 2012 (Italy)**

**97.41. Efficiently implement recently ratified international conventions, especially in the field of child rights (Kazakhstan)**

In 2012, Ukraine ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CET201), which correlates with the Optional Protocol to the UN CRC on the rights of a child on the sale of children, child prostitution and child pornography. As of March 2017, the national legislation has not been brought in line with this Convention.

Ukrainian legislation should be brought in line with the provisions of above mentioned international documents, in particular, in terms of setting the minimal legal age of consent. The inefficiency of legislation does not provide for efficient and complex protection of children from being involved in prostitution and other forms of sexual abuse. Numerous reports in mass media regarding the involvement of children in prostitution, sexual exploitation, the statistics of the police, the reports of NGOs allow for the statement that there is a problem of sexual exploitation of children in Ukraine, thus it requires solving. For instance, according to the data of the NP in 2014–2015, 16 children suffered from criminal offenses (involving children in prostitution, rape, sodomy, etc.).

On February 03, 2015, the draft law No. 2016 was registered in the Verkhovna Rada entitled “On introducing changes to the CC on the protection of children from sexual abuse and sexual exploitation”, which suggests setting clear minimum legal age of consent, finalizing the responsibility of persons, encroaching sexual freedom and untouchability, honor and dignity of children. The draft law was adopted in the first reading on November 15, 2016.

On February 09, 2017, the draft law No. 6070 was registered in the Verkhovna Rada entitled “On introducing changes to Article 242 of the CC”, which envisaged the introduction of the requirement of conducting forensic examination for the determination of sexual maturity of the affected minor. As of March 20, 2017, the draft laws have not been adopted.

**97.86. Introduce a clear definition of child pornography into national legislation (Portugal)**

Ukrainian legislation does not contain the definition of “child pornography”. Article 301 of the CC specifies the following crime: forcing minors to participate in the production of works, images, or films and video products, software of pornographic nature.

According to the Procedure of considering applications and reports on abusive treatment of children or the threat thereof<sup>18</sup>, one of the ways of abusive treatment is forcing him or her to prostitution using deceit, blackmail or vulnerable state of a child or using or threatening to use violence; forcing children to participate in the production of works, images, film and video products, software or other objects of pornographic nature.

### **3. Recommendations**

- 1. To elaborate and implement the methods of estimating the finances, allocated for financial support of the activity in combating THB within the budgets of central and local authorities, working at combating THB.*

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<sup>18</sup> <http://zakon3.rada.gov.ua/laws/show/z1105-14>

2. *To ensure sufficient finances for the implementation of the State Anti-Trafficking Programme and counter trafficking in general.*
3. *To introduce practices of specialization for investigators and prosecutors while conducting pretrial investigations and procedure guidance in criminal proceedings on crimes, related to THB.*
4. *To support cooperation of law enforcement authorities and NGOs, working in the sphere of combating THB, in particular, with the purpose of providing timely and efficient assistance to victims.*
5. *To continue the practice of conducting regional educational and training seminars on the issues of combating THB (particularly in children and young people), as well as the application of state-of-the-art forms of study, based on interactive distance educational courses, with the participation of specialists of operational subdivisions and specialized investigators of the NP, specialized prosecutors, specialists of the State border control of Ukraine, trial court judges and appeal court judges (at their consent), with the involvement of representatives of state administrations, responsible for establishing the status of a victim, and NGOs.*
6. *With the involvement of NGOs, to launch the course in combating THB in the basic training of the specialists of the NP, along with continuous upgrading the qualification of specialists, taking measures in the sphere of fighting the crimes of the mentioned category.*
7. *To prepare methodological recommendations regarding the specificities of detecting, registering and investigating the crimes, related to THB, with the consideration of best practices of investigating, criminal proceedings and their trial in courts.*
8. *To summarize judicial practice of court hearing of cases, related to THB.*
9. *For the National School of Judges of Ukraine - to introduce the system of distance studies and upgrading the qualification of judges in the matters of court hearing of criminal proceedings according to Article 149 of the CC.*
10. *To involve monitors of international missions in revealing the facts of THB in the territories, uncontrolled by Ukraine.*
11. *To regularly raise the awareness of Ukrainian citizens, in particular, internally displaced persons, about the risks of getting into situations of human trafficking, and providing them with the possibility of receiving qualified consultations.*
12. *To regulate the work of local executive authorities within the legal framework for their fulfilling the functions of establishing the status of a victim, which are vested upon them by the Combating Trafficking in Persons Act.*
13. *To elaborate normative and regulatory acts with the purpose of estimating danger (actual risks) for foreigners or persons without citizenship while they are returning from Ukraine to their country of origin. To involve state officials and teachers in the programs of upgrading qualifications in the issues of combating trafficking and to conduct this work in all the regions of Ukraine.*
14. *To ensure intersectoral cooperation in improving the mechanisms of interaction between the parties, involved in combating human trafficking, in the regions.*
15. *To pay attention to the identification of victims of THB among internally displaced persons; to protect children, who have suffered from trafficking in children; to develop indicators, facilitating the detection of victims of THB.*
16. *To bring Ukrainian legislation in line with the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography to the UN Convention on the rights of a child, the Council of Europe Convention of the Protection of Children against Sexual Exploitation and Sexual Abuse, European Social Charter (as amended).*