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The policy of combating trafficking in human beings: the Ukrainian context

Ekateryna Ivaschenko-Stadnik

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The profile of Ukraine in the context of the issue of trafficking in human beings: the scale of the problem and the effectiveness of solutions. According to the IOM, Ukraine is currently at the top of the list of countries where the problem of human trafficking is most pressing (IOM rating is generated based on a number of victims who sought help from the organization. In 2010, 1,085 Ukrainian citizens sought such help; in 2011 – 835 citizens, and in 2012 – 945 citizens).¹ The problem became visible in the early 1990s (after the collapse of the USSR). During the 20 years subsequent to Ukrainian independence, it grew significantly: in general, according to the sociological data provided by the IOM in Ukraine, over 120,000 Ukrainian women, men and children were affected by this phenomenon from 1991 until the present day.²

Despite the apparent severity of the trafficking situation in Ukraine, according to the results of the research conducted with the support of the European Commission,³ Ukraine was ranked only 87th in the world rankings of combating human trafficking.⁴ The study developed an index of combating trafficking in human beings for the 182 countries, divided into three categories: 1) the punishment of perpetrators of trafficking, 2) the protection of victims of trafficking, and 3) the prevention of human trafficking. Overall, the policy of resisting was rated as more effective in the protection of victims and prevention of such crimes, but less effective as regards the prosecution of criminals. In Ukraine, the trends are different: Ukraine scored the maximum five points out of five in the category of prosecution of criminals,⁵ while obtaining only three points in the last two categories – the protection of victims and the prevention of HT crimes. In 2012, the annual thematic report of the US Department of State defined Ukraine as a state that makes insufficient efforts to combat human trafficking.⁶ In the context of the policy of crime prevention in this field, the authors of the report identified the most problematic cause of this situation: the Ukrainian government does not take sufficient steps to investigate, prosecute, and convict government officials complicit in human trafficking.⁷

The report also notes that while the Ukrainian Government did not provide any statistics on the prosecution of officials involved in crimes related to HT, non-governmental organizations regularly report cases of corruption, including noting the participation of prosecutors, judges and border guards

¹ The number of appeals of victims to the IOM was steadily increasing in 2000s: from 42 appeals in 2000 up to 700—over a thousand in 2007-2010. *Combating trafficking in human beings: Ukraine* (Statistics last updated on 31 December 2012) / IOM: *Human trafficking closer than it appears*. Available at <http://en.stoptrafficking.org/view.statistics/>, date of access March 12, 2013.

² IOM: Украина стала лидером по уровню торговли людьми [Ukraine became a leader in human trafficking] // *Korrespondent*, February 17, 2013. Available at <http://pda.korrespondent.net/ukraine/events/1503421-ukraina-stala-liderom-po-urovnyu-torgovli-lyudmi-mom>, date of access March 10, 2013.

³ The study was conducted by a team of research experts from the University of Göttingen, Heidelberg University and the London School of Economics.

⁴ DW: Украина оказалась на 87 месте мирового рейтинга по борьбе с торговлей людьми [Ukraine is on the 87th place of the world ranking on combating trafficking in persons] // *Korrespondent*, February 22, 2012. Available at <http://pda.korrespondent.net/ukraine/events/1321948-ukraina-okazalas-na-87-meste-mirovogo-rejtinga-po-borbe-s-torgovlej-lyudmi-dw>, date of access March 12, 2013.

⁵ The report states that during the year 2010, a significant number of Ukrainian smugglers of "live goods" were prosecuted and received various sentences. Thus, in 2010, 110 people were convicted, 60 of whom were sent to prison for terms from 1 year up to 15 years. The number of convictions for human trafficking in 2010 nearly twice exceeded the number of convictions in 2009 (see previous link). At the same time, the total number of criminal cases under the relevant article declined, partially due to the imperfections of law enforcement practices. For more see page 3 of the explanatory note.

⁶ IOM: Украина стала лидером по уровню торговли людьми [Ukraine became a leader in human trafficking] // *Korrespondent*, 17 February 2013. Available at <http://pda.korrespondent.net/ukraine/events/1503421-ukraina-stala-liderom-po-urovnyu-torgovli-lyudmi-mom>, date of access March 10, 2013.

⁷ *Trafficking in Persons Report 2012* / U.S. Department of State, Ukraine Country Report, pp.353-355. Available at <http://www.state.gov/documents/organization/192598.pdf>, date of access March 14, 2013.

in the process of establishing human trafficking schemes by obstructing the objective investigation and prosecution of such cases.⁸

Country-specific forms and directions of trafficking and their impact on the formation of policy against trafficking. In the case of Ukraine, the policy of combating trafficking in human beings must take into account the specificity of the role that the country plays in the chain of international trade in human beings, as Ukraine is – during the entire period studied – the country of origin and the country of transit, and – recently – the country of destination. This means that Ukraine is not only the exporter of "live goods" from among its own citizens, but is also used as a staging post for the transportation of foreign citizens onward across the Ukrainian territory. It is also a state where the exploitation of foreign citizens involved in human trafficking takes place. It is important to note that in recent years a growing number of Ukrainian citizens are being exploited on the territory of Ukraine without being exported abroad.⁹ Although the main channel of trade is generated by Ukraine as a country of origin, the policy of combating trafficking in human beings should be comprehensive and take into account the growing threat of new forms of HT-commerce as well as ever-changing foreign policy and socio-economic conditions.

To effectively combat the problem, it is important to understand that human trafficking is not determined by purely economic hardships on the part of those citizens that become the object of trafficking. Human trafficking occurs in a situation of degradation of social and moral standards, an imperfect institutional framework and with high levels of corruption among the state institutions and bodies, which contributes to the smooth formation of both local and transnational criminal schemes to profit from the exploitation of "live goods."

Because of this, despite the fact that the coordinating body of the state policy in the field of human trafficking in Ukraine is the Ministry of Labour and Social Policy (this status is assigned to the Ministry by a Decree of the Cabinet of Ministers of Ukraine dated March 21, 2012), the implementation of targeted anti-trafficking programs involves the interaction of the agency with a number of other institutions, including the Ministry of Foreign Affairs, Ministry of Justice, the State Border Service, the Ministry of Youth and Sports, and the Ministry of Culture that supervise a broad range of diplomatic, legal, and cultural dimensions that determine the country-specific situation in this area. This work has just started, and the success of such inter-institutional cooperation is difficult to assess. It is already clear, however, that the effectiveness of the activity may be lessened by the complex problems inherent to the governmental agencies that are designated to participate in the target program against trafficking in human beings and that require fundamental restructuring. For example,

⁸ The report, for example, provides information about the intervention of regional state authorities into investigation and prosecution of trafficking cases in Volyn region. In particular, a member of the village council organized criminal circle that carried out trafficking of 20 women into Poland. In 2011, three border-guard officers extorted bribes from women who worked as prostitutes in Europe, were convicted and sentenced to 3.5 years in prison. However, at the time of publication of the report, these sentences were not carried out. – Ibid.

⁹ According to the U.S. Department of State Report on Ukraine, the main target of traffickers is working age men and women, and children. The main purposes of human trade in the foreign markets are: forced labor, sexual exploitation and begging (the latter is mainly confined to the domestic market). Ukrainian citizens as victims of trafficking are exploited in the CIS countries (in Azerbaijan, Kazakhstan, Moldova, Russia and Turkmenistan) and in the far abroad (in Europe: Albania, Bosnia and Herzegovina, Cyprus, the Czech Republic, Hungary, Germany, Greece, Kosovo, Italy, Lithuania, Macedonia, Montenegro, Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Turkey; outside Europe: Bahrain, China, Egypt, India, Iraq, Israel, Lebanon, South Africa, Syria, the United Arab Emirates, and the U.S.). Ukraine is also a country of transit for trafficking of foreign citizens. In Ukraine, trafficking is not restricted to Ukrainian nationals, but also involves men, women and children from Cameroon, Moldova, Pakistan, Uzbekistan and other countries. The most common sectors of labor exploitation are construction, agriculture, manufacturing, domestic work, wood processing industry, nursing, commerce and street begging. Most trafficking dealers are part of small organized criminal networks, the vast majority of which is headed by Ukrainians and their foreign partners from Germany, Russia and Poland. For more see *Trafficking in Persons Report 2012* / U.S. Department of States, Ukraine Country Report, cc.353-355. Available at <http://www.state.gov/documents/organization/192598.pdf>, date of access March 14, 2013.

according to the International Women's Human Rights Center "La Strada - Ukraine", the tendency to reduce the number of criminal cases opened in Ukraine under the Article 149 of the Criminal Code "Human trafficking or other illegal transactions involving human beings" (in 2010, 337 cases were opened, and during the 6 months of 2011, 126 cases were opened) is not due to the actual improvement of the situation, but to the deterioration of work quality of the relevant bodies within the Ministry of the Interior, related to the protracted reorganization of the institution. The high level of governmental corruption in Ukraine, which is registered by both domestic and foreign observers, is a serious obstacle to the implementation of effective policies to combat human trafficking, not only in co-operation with domestic and international non-governmental organizations, but also in cooperation with the governments of other states.

The evolution of governmental, international and non-governmental initiatives in the field of combating human trafficking in 1991-2013. It should be noted that in Ukraine, as in many other post-Soviet states with traditionally high level of crimes related to human trafficking, the state started to make efforts to address this problem with a certain delay. Until 1998, when the article of the Criminal Code providing for penalties for trafficking was adopted, and the preparation of state anti-trafficking programs in cooperation with concrete ministries and departments began, the workload was carried out exclusively by international and non-governmental organizations (the latter also became actively involved only in the second half of 1990s). With the support of the OSCE, a system of "hot lines" was launched in several Ukrainian cities (Kharkiv, Lugansk, Odesa, Sevastopol and Ternopol), and special counseling centers for women were set up in Kyiv, Dnipropetrovsk, Donetsk and Lviv. In 1998, the International Organization for Migration initiated a broad information campaign. It also conducted the first Ukrainian large-scale sociological study of the problem, which focused on the motivation of Ukrainians for working abroad, as well as studying the demographic profile of women at potential risk. It analyzed the means of export of women abroad and their return to Ukraine.¹⁰ Later, a special study on the level of awareness amongst the Ukrainian population regarding the phenomenon of human trafficking was conducted.¹¹ "La Strada"¹² can be considered the first non-governmental organization to combat human trafficking in Ukraine. Its activities, focused on combating the trafficking in women in Central and Eastern Europe, began in Ukraine in 1997.

Since the 2000s, this work has been more actively aided by the Ukrainian state, which for the past few years has not only been improving the legislation providing for more severe penalties for human trafficking and assisting the victims of trafficking, but has also been participating in international inter-governmental projects (in 2006, a program on Cooperation of the CIS member states to combat trafficking in human beings from 2007-2010 was adopted¹³; in 2010, Ukraine became party to the Council of Europe Convention on Action against Trafficking in Human Beings¹⁴). Also, it plays a more active role in the initiation of comprehensive state programs with the participation of

¹⁰ Причини розповсюдження торгівлі жінками в Україні [The reasons for the spread of trafficking in women in Ukraine] (2001) / *Предотвращение торговли людьми*, «Ла Страда», Киев-Харьков. Available at http://www.pravo.vuzlib.org/book_z138_page_11.html , date of access March 9, 2013.

¹¹ *Короткий звіт з дослідження рівня обізнаності з явищем торгівлі людьми* (2011) [Short report on the survey on the level of awareness amongst the Ukrainian population regarding the phenomenon of human trafficking] / GfK для Програми протидії торгівлі людьми Представництва Міжнародної організації з міграції в Україні. Available at http://iom.org.ua/ua/pdf/Summary_trafficking_GfK_final_UKR.pdf , date of access March 10, 2013.

¹² See: <http://la-strada.org.ua/>

¹³ *Решение о Программе сотрудничества государств-участников Содружества Независимых Государств в борьбе с торговлей людьми на 2007 - 2010 годы* [Resolution on the Programm of Cooperation of the CIS member states to combat trafficking in human beings for 2007-2010], Минск, 28 ноября 2006 года. Available at http://zakon2.rada.gov.ua/laws/show/997_f05 , date of access March 9, 2013.

¹⁴ *Конвенція Ради Європи про заходи щодо протидії торгівлі людьми* [Council of Europe Convention on Action against Trafficking in Human Beings] (Signed on May 15, 2005, signed on behalf of Ukraine on November 11, 2005). Available at http://search.ligazakon.ua/l_doc2.nsf/link1/MU05384.html, date of access March 10, 2013.

international and non-governmental organizations (in 2011, the Concept of the State Migration policy was adopted¹⁵, where anti-trafficking is defined as a strategic direction of the state migration policy; in 2012, the Concept of the state targeted social program to combat trafficking in human beings for 2013-2015 was adopted, indicating the objectives, the activities and funding – 7,393,184 thousand UAH for three years, including 2,996,616 UAH from the state budget, 1,514,833 UAH from local budgets and 2,881,735 UAH from other sources. That is, over 60% of the activities are intended to be paid from the state budget).¹⁶

However, according to the experts, the situation regarding the activities of the Ukrainian state in the field of combating trafficking in human beings can not be assessed unequivocally, as, in the case of present-day Ukraine (that is, during the tenure of the President Viktor Yanukovych), the risk of a formal approach to the implementation of symbolic gestures in the direction of increasing the visibility of international migration policies and standards (alone), and in particular, those dealing with the combating of human trafficking, is high. For example, despite the adoption of the Law of Ukraine "On Combating Trafficking in Human Beings" in the second half of 2011, up until March 2012 (the actual approval of the State target program for 2013-2015) integrated systemic work in this area was not carried out, the main executive actors were not identified, and no regulations existed in the field of implementation of the Law.¹⁷ In addition, according to international observers, the Ukrainian government should take concrete steps in order to provide greater financial and organizational support to non-governmental organizations in the field of prevention of offenses related to human trafficking and the subsequent rehabilitation of the victims of the slave trade.¹⁸ The expected intensification of cooperation between Ukraine and the EU after the Vilnius Summit of the Eastern Partnership in November 2013 – in the case of the signing of the Association Agreement – may help the Ukrainian authorities to take the implementation of the necessary policy steps in this area seriously.

¹⁵ *Про Концепцію міграційної політики України* [On the Concept of the State Migration policy of Ukraine], 30.05.2011 Available at <http://zakon4.rada.gov.ua/laws/show/622/2011>, date of access March 5, 2013.

¹⁶ *Державна цільова соціальна програма протидії торгівлі людьми на період до 2015 року*, затверджена постановою №350 Кабінету Міністрів України від 21 березня 2012 р. [State target program On Combating Trafficking in Human Beings approved by Decree of the Cabinet of Ministers of Ukraine on March 21, 2012]. Available at <http://zakon4.rada.gov.ua/laws/show/350-2012-п> , date of access March 12, 2013.

¹⁷ Левченко К. (2012), Проблеми протидії торгівлі людьми в Україні [The problems related to combating Trafficking in Human Beings in Ukraine] / *Як Україна виконує план дій з візової лібералізації? Результати громадського моніторингу*, Міжнародний жіночий правозахисний сс.60-74. Available at http://www.novisa.org.ua/upload/Full%20monitoring_UKR_60-74.pdf , date of access March 15, 2013.

¹⁸ *Trafficking in Persons Report 2012 / U.S.Department of States, Ukraine Country Report*, сс.353-355. Available at <http://www.state.gov/documents/organization/192598.pdf> , date of access March 14, 2013.