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**ACTION PROGRAM AGAINST TRAFFICKING IN MINORS
FOR SEXUAL PURPOSES**

Desk review

**Trafficking in Minors
for commercial sexual exploitation
Ukraine**

by
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CHAPTER 1 COUNTRY PROFILE¹



GEOGRAPHY

Area: total: 603,700 sq km

Land boundaries: 4,663 km

Coastline: 2,782 km

Climate: temperate continental; mediterranean only on the southern Crimean coast; winters vary from cool along the Black Sea to cold farther inland; summers are warm across the greater part of the country, hot in the south

Terrain: most of Ukraine consists of fertile plains (steppes) and plateaus, mountains only in the west (the Carpathians), and in the Crimean Peninsula in the extreme south

Natural resources: iron, coal, manganese, natural gas, oil, salt, sulphur, graphite, titanium, magnesium, kaolin, nickel, mercury, timber, arable land

1 This section is based on UNDP, *Human Development Report 2004*, July 2004; UNDP, *Ukraine: Common Country Assessment*, Kiev 2002; US State Department, *Background Note: Ukraine*, February 2005 and CIA, *The World Factbook*, November 2004; and US Department of State, *Post Report. Ukraine*, October 2003.

Land use: *arable land:* 57.1%; *permanent crops:* 1.73%; *other:* 41.17% (1998 est.)
Environment - current issues inadequate supplies of potable water; air and water pollution; deforestation; radiation contamination in the northeast from 1986 accident at Chernobyl' Nuclear Power Plant.

GOVERNMENT

Government type: Republic

Capital: Kiev (Kyiv)

Independence: 24 August 1991 (from Soviet Union)

Constitution: adopted 28 June 1996

Administrative divisions: 24 *oblast*², 1 autonomous republic* and 2 municipalities with special status**; Cherkas'ka (Cherkasy), Chernihivs'ka (Chernihiv), Chernivets'ka (Chernivtsi), Dnipropetrovs'ka (Dnipropetrovs'k), Donets'ka (Donets'k), Ivano-Frankivs'ka (Ivano-Frankivs'k), Kharkivs'ka (Kharkiv), Khersons'ka (Kherson), Khmel'nyts'ka (Khmel'nyts'kyy), Kirovohrads'ka (Kirovohrad), Kyiv**, Kyivs'ka (Kiev), Luhans'ka (Luhans'k), L'vivs'ka (L'viv), Mykolayivs'ka (Mykolayiv), Odes'ka (Odesa), Poltavs'ka (Poltava), Avtonomna Respublika Krym* (Simferopol'), Rivnens'ka (Rivne), Sevastopol***, Sums'ka (Sumy), Ternopil's'ka (Ternopil'), Vinnyts'ka (Vinnytsya), Volyns'ka (Luts'k), Zakarpats'ka (Uzhhorod), Zaporiz'ka (Zaporizhzhya), Zhytomys'ka (Zhytomyr)

Legal system: based on civil law system

Suffrage: universal; 18 years of age

Executive branch *Chief of state:* President. *Head of government:* Prime Minister. *Cabinet:* Cabinet of Ministers appointed by the president and approved by the Supreme Council. *Elections:* President elected by popular vote for a five-year term; Prime Minister and Deputy Prime Ministers appointed by the President and approved by the Supreme Council.

Legislative branch: unicameral parliament or *Verkhovna Rada* (450 seats; its members are elected to four years term)

Judicial branch: Supreme Court; Courts of Appeal, local courts, and Constitutional Court.

POPULATION

Population: 47,42 million (2004 est.); *population under age 15 – 16.5%* (2002 est.)

Religions: Ukrainian Orthodoxy, Ukrainian Greek Catholicism, Judaism, Roman Catholicism, Islam and others

Languages: Ukrainian (official), Russian, others

Literacy: *Adult literacy rate (ages 15 and above) - 99.6%; youth literacy rate (ages 15-24) 99.9%* (2002 est.)³

Education level: about 70% of adult population has secondary or higher education

Health: *Infant mortality rate – 22/1,000; life expectancy – 61.6 years (males); and 72.8 years (females)*

HIV prevalence: 1.4% (0.7%-2.3%) (ages 15-49) (2003 est.)

Work force: 23 million

Population below income poverty line: 25% (income poverty line: US\$ 4 a day)

² 'Oblast' is the word for an administrative area in Ukraine.

³ UNDP, *Human Development Report 2004*: 140.

Human Development Index (HDI): *rank – 70; value – 0.777 (2002 est.)*⁴
Gender Empowerment Measure (GEM): *rank – 65; value – 0.411*
Gender-related Development Index (GDI): *rank – 57; value – 0.773.*

ECONOMY

GDP: US\$ 62.77 billion (2004 est.)

GDP - annual growth rate: 12.5% (2004 gov. est.)

GDP - per capita: US\$ 1,324 (2004 est.)

GDP - composition by sector: *agriculture: 23.4%; industry: 41.5%; services: 35.1%* (2001 est.)

Inflation rate (consumer prices): 8.2% (2003 est.)

Labor force: 22.8 million (1997 est.)

Labor force - by occupation: industry and construction 32%, agriculture and forestry 24%, services 44% (1996)

Unemployment rate: 4% officially registered; large number of unregistered or underemployed workers (2003 est.)

Industries: coal, electric power, ferrous and nonferrous metals, machinery and transport equipment, chemicals, food-processing (especially sugar)

Agriculture – products: grain, sugar beets, sunflower seeds, vegetables; beef, milk

Exports: US\$ 23.07 billion (2003 est.) - ferrous and nonferrous mineral products, fuel and petroleum products, chemicals, machinery and transport equipment, food products

Exports – partners: Russia 17.8%, Turkey 6.9%, Italy 4.7%, Germany 4.2% (2002)

Imports: US\$ 23.02 billion (2003 est.) - energy, machinery and equipment, chemicals

Imports – partners: Russia 37.6%, Turkmenistan 11.2%, Germany 9.9% (2002).

⁴ *Ibidem*, UNDP, *Human Development Report 2004*.

CHAPTER 2 LEGAL FRAMEWORK

Legislation, be it international, regional or national, is one of the major tools to combat trafficking in persons.

2.1 INTERNATIONAL LEGAL INSTRUMENTS

Ukraine is party to the major UN binding instruments on the issue:

- The Universal Declaration of Human Rights (1948);
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (accessed by Ukraine on 15 November 1954);
- The ILO Convention No. 29 on Forced Labour (ratified on 10 August 1956);
- The Supplementary Convention on the abolition of slavery, the slave trade and institutions and practices similar to slavery (ratified on 3 December 1958);
- The Slavery Convention (accessed by Ukraine on 27 January 1959);
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (ratified on 12 March 1981);
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 24 Feb 1987);
- The Convention on the Rights of the Child (ratified on 28 August 1991);
- The ILO Convention No. 182 on the Worst Forms of Child Labour (ratified on 14 December 2000);
- The ILO Convention No. 105 on the Abolition of Forced Labour (ratified on 14 December 2000);
- The Optional Protocol on the sale of children, child prostitution and child pornography (ratified on 3 July 2003);
- The Convention against Transnational Organized Crime (ratified on 21 May 2004);
- The Protocol against the Smuggling of Migrants by Land, Sea and Air (ratified on 21 May 2004);
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (ratified on 21 May 2004).

Just a month after proclaiming Ukrainian independence, in September 1991, Ukraine ratified the Convention on the Rights of the Child as one of its first legislative acts, and in 1993, the All-Ukrainian Committee for Children's Rights (AUCCR) was created as a monitoring body of the Convention on the Rights of the Child (Ecpat International, *Ukraine country profile*).

Ukraine has made serious efforts to domesticate the international instruments mentioned above. The Parliamentary Committee on Organised Crime and Corruption has supervised such efforts, and two meetings have been held for the identification of parts of the national legislation to be amended and additional norms to be introduced (IOM, 2003: 229).

2.2 REGIONAL LEGAL INSTRUMENTS

Ukraine is also member of other regional organisations that have adopted a legislation pertinent to trafficking in persons, such as the Council of Europe (CoE), the Organisation of Security and Cooperation in Europe (OSCE), and the Commonwealth of Independent States (CIS). The relevant legal instruments are:

- The CoE Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Ukraine on 11 September 1997);
- The CoE European Convention on Mutual Assistance in Criminal Matters (ratified by Ukraine on 11 March 1998);
- The CoE European Convention on Extradition (ratified by Ukraine on 11 March 1998);
- The CoE Convention on Legal Protection and Legal Relationships in Civil, Family and Criminal Cases. This resulted in fruitful cooperation and mutual assistance between the embassies of Ukraine and the diplomatic representations of foreign governments in Ukraine (O'Briain, van den Borne, Noten, 2004:80).
- The CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ratified by Ukraine on 26 January 1998);
- The CoE European Convention on the Transfer of Proceedings in Criminal Matters (accessed by Ukraine on 28 September 1995);
- The CoE Convention on the Transfer of Sentenced Persons (accessed by Ukraine on 28 September 1995);
- The OSCE Decision No.1 "Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings", adopted on 28 November 2000;
- The OSCE Decision No.6 adopted by the Ministerial Council of Bucharest on 28 November 2000;
- The OSCE Decision No.557 "Action Plan to Combat Trafficking in Human Beings", adopted on 24 July 2003;
- The CIS Agreement on Cooperation among Member States of the Commonwealth of Independent States in Combating Crime, adopted in 1998;
- The CIS Resolution on the Convention on the Cooperation of Member States of the Commonwealth of Independent States in Combating Crime, adopted in 1999;
- The CIS Convention on Legal Assistance and Legal Relations, in Civil, Family and Criminal Matters, adopted in 1993 (and its Additional Protocol of 1998).

Ukraine has concluded several multilateral and bilateral agreements on mutual legal assistance with more than 30 countries as well as 84 consular conventions on a bilateral basis. In accordance with these conventions, legal assistance is provided to citizens of Ukraine who live in other countries with which such agreements have been concluded.

In the last decade, the Ministry of Internal Affairs of Ukraine signed 16 inter-governmental and inter-departmental agreements on cooperation in combating organised crime that regulate trafficking in persons and witness protection. Among these are agreements with Canada, Czech Republic, Germany, Hungary, Israel, Latvia, Macedonia, Moldova, Poland, Romania, Russia, Turkey, United Kingdom, USA and others (IOM, 2003: 232-233; Hoshovska, 2002: 25).

In 1993 Ukraine also joined the International Criminal Police Organization (Interpol). The main aim of Interpol is to promote the widest possible mutual assistance between all criminal police authorities. The international field investigative requirements are implemented by the Interpol National Central Bureau in Ukraine, a department of the Ministry of Internal Affairs. The main missions of the NCB of Interpol in Ukraine are the coordination of the law enforcement agencies of the country in the transnational crime fighting, ensuring of cooperation with the General Secretariat and competent agencies of the states - members of Interpol in the crime fighting and appreciation of the transnational crime expansion level and threat of the crime activities of the Ukrainian citizens abroad⁵.

2.3 UKRAINIAN LEGISLATION ON CHILD TRAFFICKING

Ukrainian legal system is a civil law system. Court decisions do not therefore have force of law, as in a common law system, but may be persuasive (Minnesota Advocates for Human Rights, 2000: 34). This section provides an overview of the national legal framework of trafficking in minors for the purpose of sexual exploitation.

In the current Ukrainian legislation, the crimes related to trafficking in minors for sexual exploitation are not separately categorised and are prosecuted in the general context of trafficking in human beings (Pavlova, Kovalenko, 2003: 4). For this reason, we will analyse the Ukrainian legal framework related to trafficking in human beings and related crimes; prostitution; and the children's rights and protection.

○ Trafficking in persons

The USSR did not have a specific provision on trafficking in persons, and sexual exploitation and prostitution were not officially acknowledged (Pavlova, Kovalenko, 2003: 2). Ukraine was the first among the newly independent States to adopt a law on trafficking in 1998, i.e. article 124-1 of the former Criminal Code (Levchenko, 1999: 17; and Antislavery International, 2002: 199).

In September 2001, Ukraine adopted the new Criminal Code, including article 149, a new provision on "trafficking in people", which replaced the former article 124-1.

⁵ For more information, see Interpol website available at <http://www.interpol.com/public/Region/Europe/pjsystems/Ukraine.asp>

Article 149
Trafficking in human beings and other illegal transfer deals in respect of a human being

1. *Trafficking or other paid transfer of human beings, open or secret seizure of a person connected with his or her legal or illegal movement across the border of Ukraine with or without his or her consent or, without such a movement, for further sale or other transaction with purpose of sexual exploitation, misuse in pornography business, involvement in criminal activity, adopting of children with the purpose of commerce, exploitation of his or her labor - is punished with 3 to 8 years of imprisonment, with or without confiscation of property.*

2. *The same actions committed in respect of a minor, or several persons, or repeated, or committed by a group of persons upon their prior conspiracy, or through abuse of office, or by a person on whom the victim was financially or otherwise dependent, shall be punishable by imprisonment for a term of five to twelve years, with or without the forfeiture of property.*

3. *Any such actions as provided for by paragraphs 1 and 2 of this Article, where committed by an organized group, or involving illegal taking of children abroad or failure to bring them back to Ukraine, or for the purpose of removal of the victim's organs or tissues for transplantation or forcible donor purposes, or where these actions caused any grave consequences, shall be punishable by imprisonment for a term of eight to fifteen years with the forfeiture of property.*

source: Legislationline

Article 149 defines the crime of trafficking as the sale or any other form of paid transfer of a person, or any other illegal transaction with respect to a person, involving the crossing of Ukrainian borders. Various purposes are mentioned: sexual exploitation, commercial pornography, involvement in criminal activities, debt bondage and adoption for commercial purposes. The person's consent is considered irrelevant.

Infractions of article 149 may be punished by 3 to 8 years imprisonment. A series of aggravated circumstances are also included: the same acts committed against a minor; involvement of several persons; as part of a regular activity; collusion of officials or of someone in a position of authority over the trafficked person. This increases the sentence from 5 to 12 years imprisonment (Antislavery International, 2002: 199; and Nalyvaichenko, 2002). In case the above-mentioned actions are carried out by an organised group or relate to trafficking in minors or are directed to extracting organs and tissues from a victim for transplantation or forced donation, the penalty is 5 to 15 years of imprisonment with forfeiture of property.

Although article 149 has to be considered to a greater degree in accordance with the definition of trafficking included in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, experts believe that amendments should be made in order to fully comply with the international standards, and clarify some legislative ambiguities (IOM, 2003: 223-224, and 245).

○ Other legal provisions

Traffickers are also prosecuted under different criminal provisions⁶ including those of Chapter IV of the Ukrainian Criminal Code "Crimes against sexual freedom and

⁶ For a more detailed analysis of such provisions see IOM, 2003a: 223 and following.

sexual inviolability of a person”: article 152 (Rape)⁷; article 153 (Violent unnatural gratification of sexual desire)⁸; article 154 (Compulsion to sexual intercourse)⁹; article 155 (Sexual intercourse with a sexually immature person)¹⁰; article 156 (Debauchery of minors)¹¹.

Punishment for these crimes is directed, first of all, to the protection of women and girls’ rights (Ecpat International, *Ukraine Country Profile*). Each of these provisions includes the specific aggravating circumstance of involvement of a minor.

In addition, traffickers may be prosecuted under various other articles of the Criminal Code such as article 190 (Fraud) and article 146 (Unlawful imprisonment) (Antislavery International, 2002: 200).

- Prostitution

Persons engaging in prostitution are criminalised and liable to pay a fine or carry out community service (Antislavery International, 2002: 200).

Article 303 of the Criminal Code (Prostitution or compelling to and engaging in prostitution)¹² defines prostitution as “gainful provision of sexual services”, and punishes it with a fine of 50 to 500 times the non-taxable minimum wages or up to 120 hours of community service. Aggravated circumstances are coercion into or involvement in prostitution by way of force or threat of force, destruction or damage to property, blackmail, or deception. If the latter offences are committed by organised

7 Article 152. (Rape) “1.) Rape, that is sexual intercourse combined with violence, threats of violence, or committed by taking advantage of the victim’s helpless condition, shall be punishable by imprisonment for a term of three to five years. 2.) Rape, where it was repeated, or committed by a person who previously committed any of the offenses provided for by Articles 153 to 155 of this Code, shall be punishable by imprisonment for a term of five to ten years. 3.) Rape committed by a group of persons, or rape of a minor, shall be punishable by imprisonment for a term of seven to twelve years. 4.) Rape which caused any grave consequences, and also rape of a young child, shall be punishable by imprisonment for a term of eight to fifteen years”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

8 Article 153. (Violent unnatural gratification of sexual desire) “1.) Violent unnatural gratification of sexual desire combined with physical violence, or threats of violence, or committed by taking advantage of the victim’s helpless condition, –shall be punishable by imprisonment for a term up to five years. 2.) The same act, if repeated, or committed by a group of persons, or by a person who previously committed any of the offenses provided for by Articles 152 or 154 of this Code, and also committed in regard of a minor, shall be punishable by imprisonment for a term of three to seven years. 3.) The same act committed in regard of a young child, where it caused especially grave consequences, shall be punishable by imprisonment for a term of eight to twelve years.”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

9 Article 154. (Compulsion to sexual intercourse) “1.) Compulsion of a female or male to natural or unnatural sexual intercourse by a person on whom such female or male is financially or officially dependent, shall be punishable by a fine up to 50 tax-free minimum incomes, or arrest for a term up to six months. 2.) The same actions accompanied with threats to destroy, damage or seize property of the victim or his/her close relatives, or to disclose information defaming the victim or his/her close relatives, shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years.”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

10 Article 155. (Sexual intercourse with a sexually immature person) “1.) Sexual intercourse with a sexually immature person, shall be punishable by restraint of liberty for a term up to three years or imprisonment for the same term. 2.) The same actions committed by a parent or surrogate parent, or where they caused sterility or other grave consequences, –shall be punishable by imprisonment for a term of three to five years.”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

11 Article 156. (Debauchery of minors) “1.) Debauched actions committed in regard of a person under 16 years of age, shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years. 2.) The same actions committed in regard of a young child, or by a parent or surrogate parent, shall be punishable by restraint of liberty for a term up to five years, or imprisonment for a term up to three years”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

12 Article 303. (Prostitution or compelling to and engaging in prostitution) “1.) Systematic prostitution, that is gainful provision of sexual services, shall be punishable by a fine of 50 to 500 tax-free minimum incomes, or community service for a term up to 120 hours. 2.) Compelling to or engaging in prostitution, that is to provide sexual services for a fee by use of violence or threats of violence or destruction or damage of property, or by blackmail or deceit, shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or arrest for a term up to six months, or imprisonment for a term of one to three years. 3.) Any such acts as provided for by paragraph 1 or 2 of this Article, if committed in regard of a minor, or by an organized group, shall be punishable by imprisonment for a term of three to five years. 4.) Trading in prostitution, that is creating, leading or participating in an organized group which supports activities related to the provision of paid sex services by males and females for gainful purposes, shall be punishable by imprisonment for a term of five to seven years.”, see Legislationline at <http://www.legislationline.org/view.php?document=55244>

groups or entail minors, the punishment ranges from 3 to 5 years of prison. As for the minor forced into prostitution, the law does not explicitly state whether he/she has to be considered a criminal or a victim. However, reports state that courts and law enforcement authorities treat children/minors as victims, not responsible for prostituting themselves (Pavlova, Kovalenko, 2003: 6).

In addition, article 302¹³ of the Criminal Code prohibits creating or running brothels and trading in prostitution.

- Children's rights

Ukraine does not have a systematic legislation on children rights' protection. As mentioned above, Ukraine has ratified the UN Convention on the Rights of the Child as one of its first legislative acts. Currently twenty-seven Ukrainian laws (scattered through the Civil Code, the Criminal Code, the Family Code etc.) rule the legal status of the child (Pavlova, Kovalenko, 2003:4; and Ecpat International, *Ukraine Country Profile*).

Ukrainian legislation distinguishes between "children", aged 0-14 years, and "minors", aged 14-18 years (Pavlova, Kovalenko, 2003: 2). The Ukrainian law on protection of childhood, adopted in 2001, defined that sphere as a strategic national priority (Ecpat International, *Ukraine Country Profile*).

Chapter III of the new Criminal Code "Criminal offenses against liberty, honor and dignity of a person" criminalizes the exploitation of children for the purpose of profit under article 150.

Article 150
Exploitation of children

1. *Exploitation of children, who are under legally employable age, by way of profit-seeking employment, shall be punishable by arrest for a term up to six months, or restraint of liberty for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.*
2. *The same actions committed in regard of several children, or where they caused significant harm to health, physical development or educational level of a child, or accompanied with the use of children labor in hazardous production, shall be punishable by imprisonment for a term of two to five years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.*

source: Legislationline

In addition a number of provisions establish responsibility as a kind of preventive measure, such as article 304 (Pavlova, Kovalenko, 2003: 6).

Criminalisation of minors: Article 304 (Engaging minors in criminal activity)¹⁴, punishes with imprisonment for up to 5 years, he/she who induces a minor into alcoholism, begging or gambling.

¹³ Article 302. (Creating or running brothels and trading in prostitution) "1.) Creating or running brothels, and also trading in prostitution, shall be punishable by a fine up to 50 tax-free minimum incomes, or restraint of liberty for a term up to two years. 2.) The same actions committed for gainful purposes, or by a person previously convicted of this offense, or by an organized group, shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term. 3.) Any such acts as provided for by paragraph 1 or 2 of this Article, if committed by engaging a minor, shall be punishable by imprisonment for a term of two to seven years.", see Legislationline at <http://www.legislationline.org/view.php?document=55244>

Freedom of movement: According to the current legislation, and in accordance with the international rules on the right of free movement of persons and freedom to choose the place of residence, entry and exit from Ukrainian territory is free. Minors, being legally incapable, are only permitted to leave the country or change residence with notarised consent from the child's legal representatives or on the basis of a court order (Pavlova, Kovalenko, 2003: 8).

Adoption: According to various researches, trafficking occurs also through false adoptions¹⁵ (O'Briain, van den Borne, Noten, 2004:49-59 and 117). The process of adoption is regulated by section 18 of the Family Code of Ukraine, by Decree No. 775 of the 20 of July, 1996¹⁶ and by Decree No. #1377 of the 28 of August, 2003¹⁷ of the Cabinet of Ministers (and by other normative acts). The procedures for adoption have become more complex and transparent. In addition, the role of the courts and consulates has been increased, which, on the one hand, places barriers in the way of illegal dealers, and on the other hand, has developed a proper monitoring mechanism over the adopted child's life abroad until he/she becomes an adult (Pavlova, Kovalenko, 2003: 7).

- Measures of protection of trafficking victims

Ukraine has a witness protection law (Law on provision of safety for persons acting in trials), granting the right to safety and protection for those involved in criminal proceedings as witnesses. There is an official department for witness protection, but officials in the department are thought to lack of training and understanding of the special needs of trafficking witnesses. Experts also stress the lack of financial resources and technical possibilities to provide adequate protection. Besides, full-blown witness protection measures are not granted to trafficking persons during investigations. In many cases, law enforcement officials do not consider trafficking victims in need of such protection measures (Antislavery International, 2002: 204-205; IOM, 2003a:85).

The witness protection law provides for confidentiality, anonymity, and close trials, but such provisions are rarely used in trafficking cases, because witnesses are frequently not informed on these possibilities. In most cases, NGOs provide assistance to the victims, accompanying them to court and preparing them for trial, in addition to providing safe shelters (Antislavery International, 2002: 206).

2.3.1 Conclusive remarks on the Ukrainian legislative framework

The new Criminal Code of Ukraine criminalizes the trafficking in minors for sexual purposes. However, there is a gap between the legislation and the procedures that should enforce such legislation.

¹⁴ Article 304. (Engaging minors in criminal activity) "Engaging minors in criminal activity, drinking alcohol, begging, or gambling, shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term", see Legislationline at <http://www.legislationline.org/view.php?document=55244>

¹⁵ See, infra, para. 3.4 "Mechanisms of trafficking and Routes".

¹⁶ Entitled "The procedures for the adoption of children by citizens of Ukraine and by foreign citizens and controlling the conditions under which they are placed in adoptive families".

¹⁷ Entitled "The order of registration of children who can be adopted and registration and people who want to adopt a child, and the order of control over the children's rights after the adoption".

According to an Antislavery International research carried out in 2002, the process of investigating and prosecuting trafficking cases has proved to be quite slow, and investigations suffer lack of proper resources. In addition, the reliance on witness testimony rather than other forms of investigation, is one of the main obstacles to successful prosecutions. According to this research, both prosecutors and lawyers stressed the lack of training and understanding by the judiciary of specific issues in trafficking cases (Antislavery International, 2002: 203). Furthermore, there is no legislation regulating the rehabilitation measures for victims, although a number of organisations, NGOs and GOs are lobbying such legislation. Rehabilitation programmes exist only on a semi-formal basis; they are available mainly in large cities, but their number is small, and the victims rarely apply for help.

Another shortcoming is that prosecutors are precluded from charging alleged traffickers if the trafficking takes place within the borders of Ukraine. Ukrainian law requires, in fact, that a victim be taken across the border as an element of the offence. The current legislation prohibits international trafficking and related crimes, but does not criminalise internal trafficking.

In addition, notwithstanding the ratification of the UN Convention on the Rights of Child, the current Ukrainian legislation does not fully comply with the many provisions of the latter and many Ukrainian lawyers, NGOs representative and officials call for a substantial reform of the national legislation on children (Pavlova, Kovalenko, 2003: 8).

CHAPTER 3

TRAFFICKING IN UKRAINIAN MINORS FOR THE PURPOSE OF SEXUAL EXPLOITATION

3.1 INTRODUCTION

*“The trafficking of persons, particularly women and children, for forced and exploitative labor, including sexual exploitation, is one of the most egregious violations of human rights which the United Nations now confronts. It is widespread and growing. It is rooted in social and economic conditions in the countries from which the victims come, facilitated by practices which discriminate against women, and driven by cruel indifference to human suffering on the part of those who exploit the services that the victims are forced to provide”*¹⁸

UN Secretary-General Kofi Annan

Trafficking in human beings has been the focus of world attention since the first international counter-trafficking treaty signed in 1904¹⁹, but the attention of the global community has increased considerably since the 1990s. The first worldwide recognised definition of trafficking in persons is included in article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, opened to signatures in December 2000²⁰. In spite of the international commitments to diminishing such criminal phenomenon, experts agree on the fact that trafficking is increasing as the disparity between wealth and poverty grows between and within countries. As poverty disproportionately affects women and their children, it is not surprising that, following trends in migration, women and minors are pushed to migrate in the hope of acquiring economic security for themselves and their families (Antislavery International, 2003:4; and Shearer Demir, 2003: 1). The economic and social vulnerability of women and minors makes them a profitable target for criminal groups and traffickers.

Every year, tens of thousands of people all over the world - most of them women and children - are deceived, sold, exploited and trapped into situations from which they cannot break away. Trafficking victims are abused as commodities by transnational criminal organisations and groups, whose revenues amount to billions of dollars and operate practically with impunity (see, *inter alia* Antislavery International, 2003: 6; and UNICEF, UNOHCHR, OSCE-ODHIR, 2002: 13).

18 From statement released by the United Nations Secretary-General Kofi Annan at the International Conference of Palermo on Transnational Organised Crime on 12 December 2000, available at http://www.unodc.org/unodc/en/speech_2000-12-12_1.html

19 The “International Agreement for the Suppression of White Slave Traffic” (amended in the 1949).

20 According to article 3 of the Trafficking Protocol: “(a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article.”

Trafficking in persons is the third most lucrative activity of organised criminal groups worldwide, after the trafficking of arms and drugs. It has become one of the most lucrative criminal enterprises, which has its own long established criminal industry connected with related criminal activities such as money laundering, drug trafficking, document forgery, smuggling etc. (UNICEF, UNOHCHR, OSCE-ODHIR, 2002: 13). Net profits made out of trafficking in persons are estimated around US\$ 7 to US\$ 10 billions a year (Antislavery International, 2003: 6; and UNICEF, 2003: 11).

Experts disagree on the full scope of the problem, as figures are difficult to ascertain due to the illicit nature of the exploitation, and - given the intense feeling of shame - the small number of victims' reports (Antislavery International, 2003: 3, IOM, 2003: 7). However, it is generally accepted by the United Nations and other relevant organisations that trafficking in human beings is a rapidly expanding and extraordinarily profitable violation of human rights (see, *inter alia*, Shearer Demir, 2003: 1).

Trafficking in persons is a gendered phenomenon, which reflects the vulnerability of women and girls from poorer countries (Kangaspunta, 2003a: 100). Unfortunately, minors are also very often a target for traffickers. Minors are trafficked for many of the same purposes as adult victims: sexual exploitation, pornography, forced labor, begging, participation in criminal activities, but the vast majority is trafficked for the purpose of sexual exploitation and forced prostitution (UNDP Ukraine, 2003b: 54).

As far as minors are concerned, experts estimate that 1.2 million children are victim of trafficking for sexual or labour exploitation internationally²¹ and the key cause is poverty (Antislavery International, 2003: 4; UNICEF, 2003b: 16 and 18; UN Special Session for Children, 2002; and ILO-IPEC, 2002: 25).

Worst forms of child labor²²	Global estimate
Trafficked children	1,200,000
Children in forced & bonded labor	5,700,000
Children in armed conflict	300,000
Children in prostitution & pornography	1,800,000
Children in illicit activities	600,000
Subtotal	8,400,000*
Children in hazardous work	170,500,000
Total	178,900,000

source: ILO-IPEC, 2002: 25.

* The subtotal does not include the 1,200,000 trafficked children in order to avoid double counting, based on the assumption that generally trafficked children end up into another form of child labor.

21 According to UNICEF: "Many trafficked children are destined for sex work. But many other children who have not been trafficked are also sexually abused for commercial gain. At least 97 countries have reported cases of sexual exploitation of children." (UNICEF, 2003b: 21).

22 According to article 3 of ILO Convention No. 182, the unconditional worst forms of child labor include: "(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment, of children for use in armed conflict; (b) the use, procuring or offering a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties".

Two separate categories emerge in the trafficking of minors. Teenage girls are recruited and exploited in a similar manner to young adult women for the purposes of non-consensual sexual activity. Female child victims of trafficking face a double vulnerability due to gender and age. Although the focus of traffickers for sexual exploitation for the most part may be the gender of the victim rather than their age, prostituted children have radically different protection and reintegration needs than adults (Shearer Demir, 2003: 13). A second pattern of child exploitation is the trafficking of young boys and girls under 12 for forced labor, as well as begging, adoption, prostitution, and pornography. As with other forms of trafficking, this happens both within the state and internationally (Shearer Demir, 2003: 13).

3.2 SITUATION OF TRAFFICKING IN PERSONS IN UKRAINE

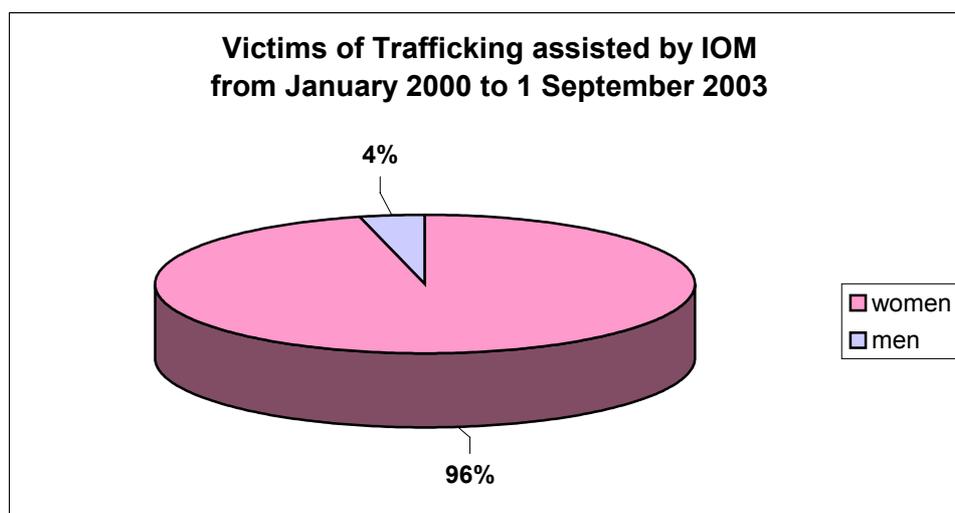
The increase in the number of persons, especially women and children, trafficked from the countries of the former Soviet Union has been quite consistent (IOM, 2003: 7; UNICEF, 2003b: 16). Although, as mentioned above, the illicit nature of the phenomenon makes it extremely hard to provide reliable data (see, *infra*, paragraph 3.6), Central and Eastern Europe are a major source of trafficked persons, besides being a transit and, to some extent, destination area (see, *inter alia*, Hughes, 2001a: 9; and von Struensee, 2000).

According to IOM statistics, Ukraine is one of the major origin countries in the trafficking of women and children for the purpose of forced prostitution and sexual exploitation (IOM, 2003: 220). Weekly, women and minors from Ukraine are trafficked through formal and informal channels all over the world, including countries in the Balkans, Central and Eastern Europe and the Middle East (Minnesota Advocates for Human Rights, 2000: 3). As far as minors are concerned, the number of children involved in prostitution within the country and abroad is growing (Ecpat International, *Ukraine Country profile*). More evidence is surfacing about trafficking in children (International Women's Rights Center, 2004b: 35).

There are a multitude of root causes for the increase of such a criminal phenomenon in Ukraine, including – among others – harsh socio-economic conditions especially affecting women and children; great profits for traffickers and high level of impunity; extensive corruption; rampant criminal syndicates; and lack of resources and training for law enforcement. According to UNDP, in Ukraine women constitute 80 percent of the unemployed due mostly to discrimination in hiring and disproportionate lay-offs, including illegal dismissals during maternity leave. Women made up more than half of university graduates, and three-fourths of unemployed women held university degrees. For those in the work force, women's salaries equalled only 73 percent those of men in comparable positions (UNDP Ukraine, 2003: 28; and Human Rights Watch, 2003). These factors have a negative impact on minors too; as a matter of fact, when poverty affects families, many social problems affect young people as well, making them extremely vulnerable to traffickers (O'Brian, van den Borne, Noten, 2004: 28).

3.3 UKRAINIAN VICTIMS OF TRAFFICKING

Most of the victims of trafficking from Ukraine are female, as assessed by various researches²³ (see, *inter alia*, IOM, 2003: 220; and Protection Project, 2002: 567; Hoshovska, 2002: 24; and Rudd, 2002). There have been a few cases of trafficking in men from Ukraine, but they were cases of forced labor (International Women's Rights Center "La Strada-Ukraine", 2004b: 35; US Department of State, 2002: 33); in the majority of cases, trafficking occurs for the purpose of sexual exploitation and involves women and girls (UNDP Ukraine, 2003: 54; and Bandurka, 2002: 9). This is confirmed by the fact that in today sex industry, the most valuable women are from Russia and Ukraine (Hughes, 2001a: 9).



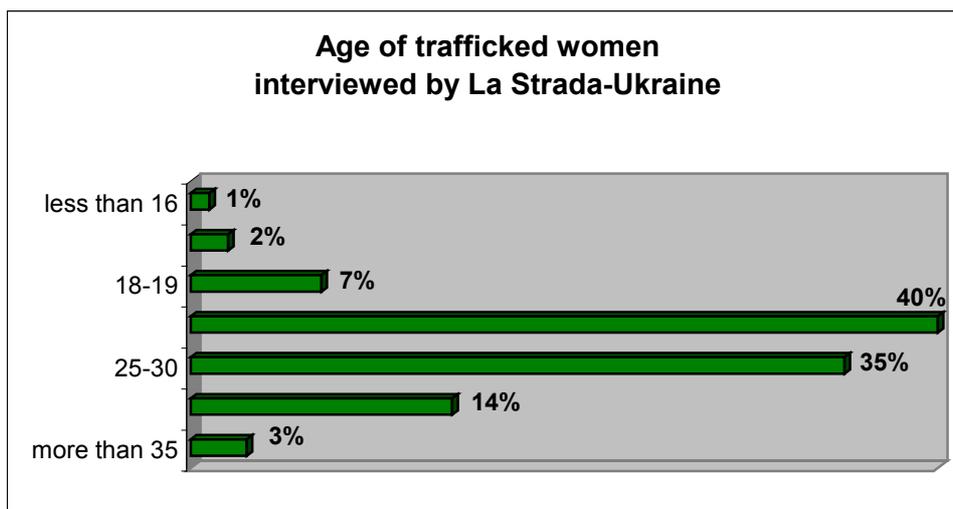
source: IOM, 2003: 220.

In addition, internal trafficking is becoming more widespread: children are involved in prostitution and exploited in the pornography industry (International Women's Rights Center "La Strada-Ukraine", 2004b: 36).

With reference to the average age of trafficked victims, experts' opinions slightly differ. One source affirms that most of the victims of trafficking from Ukraine are between 17 and 26 years of age (Hughes, 2001: 7), while for IOM the average is typically 22-27 years (IOM, 2003: 221).

A survey conducted by the NGO "La Strada-Ukraine" in 2001-2003, based on a sample of 106 trafficked persons, indicated that the age ranges from 16 to 35 years of age: the majority belongs to the groups 20-25 years (40%), and 25-30 years (35%) (International Women's Rights Center "La Strada-Ukraine", 2004a: 10).

²³ IOM states that from 2000 to 1 September 2003, of the 921 assisted by the organisation 96% were women (IOM, 2003a: 220).

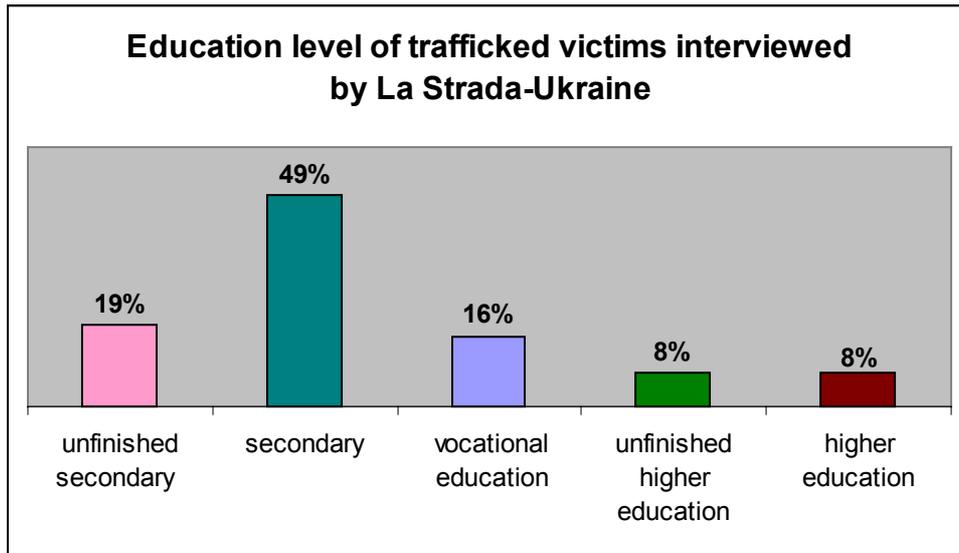


source: International Women's Rights Center "La Strada-Ukraine", 2004a: 10.

Experts, nonetheless, warn that the trend is an increasing number of trafficked minors (US Department of State, 2004: 184). According to Ecpat International's recent report, the majority of Ukrainian trafficked minors belongs to the age group 15-17 years (O'Briain, van den Borne, Noten, 2004: 28), while the majority of the minors assisted by IOM is between 16 and 17 years of age (UNDP Ukraine, 2003: 54). A recent study has found that young girls in Ukraine are particularly vulnerable to trafficking; according to this survey, girls aged 12-17 wish to go abroad to work under conditions that could lead to a trafficking situation (Rudd, 2002:11).

The overwhelming majority of victims comes from low-income families, very often single-parents families, with dependants (such as mothers, minor brothers or sisters, children etc.). According to Ecpat International, 74% of Ukrainian minors involved in prostitution come from single parents families, and over 20% are from residential institutions (O'Briain, van den Borne, Noten, 2004: 29). Street children and orphans are particularly vulnerable to trafficking (see, *inter alia*, International Women's Rights Center "La Strada-Ukraine", 2004b: 10).

On average, trafficked victims have completed secondary school (about 49%), or vocational training (16%), but for a significant number the education level is quite low: 19% has not completed secondary school (International Women's Rights Center "La Strada-Ukraine", 2004a: 10; see also UNDP Ukraine, 2003: 54, Bandurka, 2002: 12).



source: International Women's Rights Center "La Strada-Ukraine", 2004a: 10.

3.4 MECHANISMS OF TRAFFICKING AND ROUTES

Traffickers and recruiters have developed common operating methods for recruiting women and minors for the purpose of sexual exploitation.

- 1) The most common way young women are recruited in Ukraine is through a friend or acquaintance, whom the victim trusts. This method is based on the deception about living and working conditions to be found abroad. Approximately 70% of women are trafficked through deception (Hughes, 2001: 9). Many women trafficked from Ukraine agree to travel abroad without fully understanding what is involved (Minnesota Advocates for Human Rights, 2000: 18). This is especially true in the case of minors, targeted because not fully capable of understanding the real working and living conditions, in addition to the lack of information among young people trying to emigrate (O'Briain, van den Borne, Noten, 2004: 31). According to UNDP, less than 30% of Ukrainian women assisted by IOM actually knew or intended to work in the sex industry before being trafficked (UNDP Ukraine, 2003: 55). Sometimes, parents and friends make use of coercion and violence (Minnesota Advocates for Human Rights, 2000: 19).
- 2) An increasing phenomenon is the so-called "second wave": former trafficking victims return home to recruit other young women, which is confirmed by the fact that experts estimate that about 70% of pimps in Ukraine are women (Hughes, 2001a: 6; and Minnesota Advocates for Human Rights, 2000: 20).
- 3) One of the most frequent recruitment's strategies is advertisement in newspapers offering job opportunities abroad, such as housekeepers, waitresses, nannies, or dancers and hostesses. An estimated 20% of Ukrainian women victim of trafficking are recruited through this method (Hughes, 2001a: 11; and Levchenko, 1999: 10). Women are also recruited through social events and auditions for fashion shows and beauty contests, and model agencies.

- 4) Another method of recruitment is through the “marriage agencies”, also called mail-order-bride agencies or international introduction services, many of which operate on the Internet (Hughes, 2004). Pictures, body measurements and descriptions of advertised women are provided by the agencies on-line. The descriptions follow sexist stereotypes of “Russian” women to market them to potential Western costumers²⁴. The figures involved in such business are astonishing. A recent research on the recruitment of women in countries of the former Soviet Union analysed 219 web-based marriage agencies provided with database of potential “brides”. Such databases contain almost 32,000 Ukrainian women, the second largest number after that of the Russian Federation (Hughes, 2004: 4). Although, there is quite a large number of successful and happy cases of women getting married to foreigners through marriage agencies, recruiters occasionally use this way to contact vulnerable young women eager to emigrate in search of a bright future (Levchenko, 1999: 11). Recruiters may be traffickers or work directly for traffickers. In many cases, the woman, often very young, meets with the man who promises to marry her in a short period of time. Later the man sells her to a brothel, or coerces her into pornography or other forms of sexual exploitation (Hughes, 2001: 6). Websites, in general, are used in various ways to assist in the sexual exploitation of women and children. (Hughes, 2002a: 7).
- 5) The “*au pair* system” has been also used as a channel for trafficking. Many agencies employ young people through this system, which allows the person to study foreign languages, and get in touch with the culture and tradition of foreign countries. Unfortunately, young women willing to travel as *au pair* end up sometimes into slavery-like conditions (Levchenko, 1999: 11).
- 6) Illegal adoptions have been also a mechanism for the trafficking of minors from Ukraine, this especially in the case of teen girls and children (IOM, 2003a: 82; Hughes, 2001: 8; and Minnesota Advocates for Human Rights, 2000: 15). Homeless, orphans and street children²⁵ are deemed extremely vulnerable. (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 10; and O’Brian, van den Borne, Noten, 2004: 28). After the disintegration of the Soviet Union a great number of foreigners went to Ukraine to adopt a child. The procedure was quite simple, because the relevant legislation was almost non-existent: it was sufficient to fill in the forms at the *oblast* adoption centre (Pavolva, Kovalenko, 2003: 7). Since 1996 the situation has fortunately changed, with the creation of the State Centre for the Adoption of Children, attached to the Ministry of Education, responsible at the national level for the adoption procedures.
- 7) Sometimes trafficking occurs also by the way of kidnapping. There have been cases of young women leaving the house for a walk and disappeared, drugged and sold to a brothel abroad (Minnesota Advocates for Human Rights, 2000: 21).

24 Donna Hughes quotes some advertisements from marriage agencies in the former Soviet Union, such as: “The attraction of Russian girls is that they’re not so feminized, not so business minded, they think about home, kids, and their appearance. Western women want to have career, demand cash, have expensive divorces, but Russian women are very pretty, there are plenty of them, they’re not spoiled and not too demanding” (Moscow Times, 1995) (Hughes, 2004a: 6).

25 According to the UN Common Country Assessment, the number of orphans and children lacking parental care doubled during the 1990s, reaching 103,400 in 1999 (UNDP Kiev, 2002:24).

No matter which strategy traffickers adopt for recruitment, Ukrainian victims are usually provided with documents to travel across the international borders. Legal papers and tourist visas are used, as well as false or forged documents obtained in some cases through the corruption of public officials. In the majority of cases, documents are taken from the victims as soon as they arrive at destination, causing them to be even more vulnerable. From the initial recruitment to the final destination victims can be sold several times (IOM, 2003: 221).

In the destination countries, the victims are subject to a wide range of abuses, including bonded labor and forced prostitution, threats against them and their family, deprivation of their liberty and earnings. All trafficking victims endure serious physical and psychological violence (UNDP Ukraine, 2003: 55). Debt bondage is the method used to keep victims under control. Victims are requested to pay back traffickers and exploiters the price of the travel ticket and documents, in addition to accommodation, food and lodging, work clothes etc. The only way victims have to repay their debt is to engage in prostitution and provide sexual services (IOM, 2003: 221).

Because of its geographic position, Ukraine is mostly a country of origin, but also transit of trafficking. Routes of trafficking are constantly evolving according to the global changes in supply, demand and regulatory environment. As shown in the map below, the major routes go from Ukraine to the Russian Federation or to Central Europe and the Balkans, especially Yugoslavia, Bosnia Herzegovina and Albania, or to the Middle East. Another route originates from Central and Eastern Europe countries and arrives to EU Member States and other developed countries, using Poland, Czech Republic and Hungary for transit (Kingman, Limoncelli, 2004: 4-7; UNDP Ukraine, 2003: 56; and UNICEF, 2003: 20).

The final destinations for Ukrainian women and minors trafficked for the purpose of sexual exploitation are mainly Western Europe (Belgium, France, Germany, Greece, Italy, Netherlands, Spain, Turkey, Cyprus), Canada, the United States, but also Japan, Israel, the Arab Emirates, and Syria, (International Women's Rights Center "La Strada-Ukraine", 2004b: 9; Pavlova, Kovalenko, 2003: 10-11; and US Department of State, 2002: 33).

Trafficking of Persons, Especially Women and Children: Ukraine Routes



- Ukraine
- Countries with trafficking activity
- Transit Stop

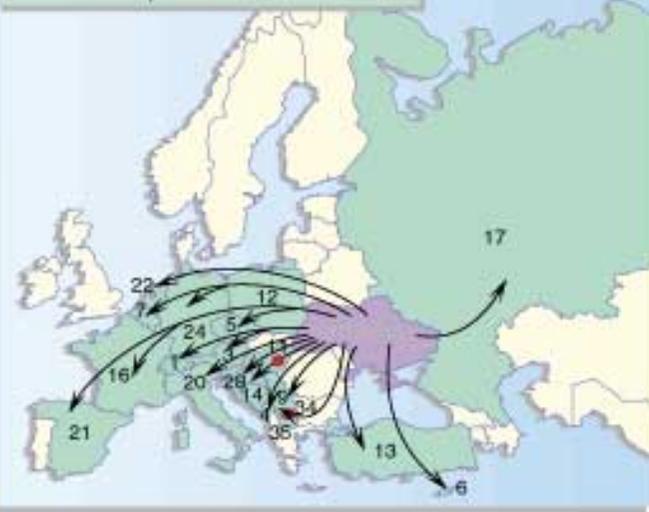
Source: © The Protection Project
Johns Hopkins University
School of Advanced
International Studies

Created by Neha Mathur
March 2002

- 1) Switzerland, 2) Kuwait, 3) Austria, 4) Montenegro,
- 5) Czech Republic, 6) Cyprus, 7) Belgium, 8) Israel,
- 9) Kosovo, 10) Thailand, 11) Hungary, 12) Poland,
- 13) Turkey, 14) Former Yugoslavia, 15) U.S.A.,
- 16) France, 17) Russia, 18) Jordan, 19) Egypt,
- 20) Italy, 21) Spain, 22) Netherlands, 23) Philippines,
- 24) Germany, 25) UAE, 26) Syria, 27) China,
- 28) Croatia, 29) Japan

Routes represent at least one documented case of trafficking of persons. See individual country reports for additional information.

Trafficking From Ukraine to European Countries



source: The Protection Project, available at <http://www.protectionproject.org/main1.htm>

3.5 TRAFFICKERS AND ORGANISED CRIMINAL GROUPS

Experts agree that the trafficking in women and minors is controlled by criminal groups or networks, which act transnationally. Such groups are highly organised, have large-scale operations and have strict connections with corrupt officials in Ukraine and abroad (IOM, 2003: 221; and Hughes, 2001: 6). According to one source, 65% of trafficking cases involving Ukrainian women was carried out by organised crime groups, using databases of potential victims based on a variety of different sources, such as applications for beauty contests, and marriage or employment agencies (Hughes, 2004: 3; and Hughes, 2001: 6-7).

According to the research carried out by Ecpat International in 2004, Ukrainian girls are sold for between US\$ 2,000 and US\$ 10,000 each, depending on the destination country. A Ukrainian minor can earn in Israel up to US\$ 50,000-US\$ 100,000 per year for her pimp, while keeping for herself almost nothing (O'Brian, van den Borne, Noten, 2004: 35, see also Pavlova, Kovalenko, 2003: 10-11).

Trafficking occurs through very flexible modalities, criminal groups adapt their strategies according to profit, ease of recruiting victims, and risks of detection (Hughes, 2001: 9). Such groups operate with relative impunity as a result of a series of factors, among which the victims' fear of reporting to law enforcement, lack of appropriate mechanisms for enforcing existing legal provisions, and criminalisation of prostitution, which turns the victim into an offender (IOM, 2003b: 221; and Bandurka, 2002: 12).

UNDP states that traffickers can be either men or women. Their educational background is quite wide, from uncompleted secondary school to university degree, and age ranges from 15 to 50 years old. Persons identified as traffickers are Ukrainian nationals but as well persons from neighbor countries (such as Russians, Kazakhs, Turks, Moldavians) or other countries (such as Syrians, Greeks, Hispanics, Italians, Israelis, etc.) (UNDP Ukraine, 2003: 55). Traffickers of Ukrainian women have however a common feature: they are always part of a criminal group or network, since trafficking is never carried out by single individuals, but on the contrary involves a variety of persons, as recruiters, brothel keepers, exploiters, assistants etc. (UNDP Ukraine, 2003: 55).

3.6 FIGURES AND STATISTICS: PROBLEM OF AVAILABILITY AND RELIABILITY OF DATA

During the recent years a great number of reports, researches, articles and books have been published on the issue of trafficking in persons, but very few of these materials provide data and statistics on the phenomenon. If figures are provided, they are usually based on estimates, which are not always reliable (Kangaspunta, 2003).

IOM states that in 1997 alone, an estimated 175,000 women and girls were trafficked out of Central and Eastern Europe and the Commonwealth of Independent States (UNICEF, 2003: 19). The Ukrainian *Ombudsman* (the official in charge of protecting human rights in Ukraine) states that between 1991 and 1998 about half a million Ukrainian women were trafficked to the West (O'Brian, van den Borne, Noten, 2004: 41). This estimate is confirmed by another study of 2002, which states that about 400,000 women have been sold into prostitution in the last decade (Protection Project; 2002: 567). According to this study, nearly 1,000 girls each month leave

from the town of Donetsk, to seek overseas employment. Responding to advertisements for waitresses, dancers, or domestic workers, most of them end up forced into prostitution (Protection Project; 2002: 567). Another source mentions the estimates of the Ukrainian Ministry of Interiors of the year 2000, according to which about 100,000 Ukrainian women were trafficked during the previous decade (Hughes, 2001a: 10).

The Ukrainian Ministry of Interior has indicated that in 2000 alone 5,500 Ukrainian women were trafficked to Turkey; 3,500 to Greece; over 1,200 to Serbia and about 1,000 to Italy to be involved in the sex industry (Bandurka, 2002: 8).

Data on trafficked minors are extremely rare and rather vague. One source mentioned that “in the 1990s alone, about 800 minors were smuggled out of Ukraine; of these 130 came from Lviv” (Strekalov, 2002: 57). According to a recent research carried out by Ecpat Europe Law Enforcement Group, the police estimate that in Ukraine 24% of all prostitutes are minors over the age of 15 (O’Brian, van den Borne, Noten, 2004: 41).

3.7 CURRENT COUNTER-TRAFFICKING ACTIVITIES IN UKRAINE

3.7.1 Prevention

Ukrainian commitment and efforts to prevent trafficking in persons is widely recognised. In 1999, the Comprehensive Programme on Prevention of Trafficking in Women and Children was adopted, involving 20 ministries, local governments, international organisations, donors and NGOs. The programme focused on three main areas: punishment of the persons involved in trafficking, awareness and information campaigns among potential victims; measures for the recovery of victims after their return in Ukraine. However, this programme did not prove quite effective due to lack of funding, and its focus was restricted to trafficking in women for prostitution (Antislavery International, 2002:200; IOM, 2003: 85; Ecpat International, *Country Profile*; and Levchenko, 1999: 26-27).

In 2002, the Cabinet of Ministers of Ukraine adopted by Decree No. 766 the new “Comprehensive Programme to Counteract Trafficking in Human Beings 2002 to 2005”, consisting of a range of measures for trafficked persons (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 9; Hoshovska, 2002: 25, and Levchenko, 2002: 45). Such measures include the creation of reintegration centres providing necessary medical, psychological and legal assistance for victims of trafficking or other forms of violence. While such centres are being implemented²⁶, recovery is provided by NGOs. However, in many cases trafficked persons, who contact the police and report traffickers, are not frequently considered trafficking victims and are consequently not referred to NGOs involved in victims’ assistance (O’Brian, van den Borne, Noten, 2004: 32; and Antislavery International, 2002: 207).

Over the past few years, several bodies have been created in Ukraine to coordinate activities against trafficking in persons, such as the **National Council on Counteraction Trafficking in Women and Children Combating Trafficking in**

26 In June 2003, the Ukrainian Government adopted Decree No. 987 “On the Approval of the Model Regulation of the Rehabilitation Centres for Victims of Trafficking in Persons”, which provides guidelines for rehabilitation centres of THB victims, although it did not directly create any such centres (IOM, 2003a: 236, and Levchenko, 2002: 46).

People, which is set up under the office of the Ombudsman in 1999; the **Intergovernmental Council on Counteraction Trafficking in People** set under the Cabinet of Ministers of Ukraine in 2004; and the **Expert Group under the Intergovernmental Council on Counteraction Trafficking in People**, established by Decree No.20/2001 (IOM, 2003: 236; Levchenko, 2002: 47; and Hoshovska, 2002: 25-26).

One important government initiative was the creation of the **Interagency Coordination Group for Illegal Migration Control** established in March 2001 and chaired by the Deputy Prime Minister to coordinate governmental efforts against trafficking and strengthen the relevant agencies' capacities (IOM, 2003: 236; Levchenko, 2002: 47; and Hoshovska, 2002: 25). Each region in Ukraine has an anti-trafficking commission in charge of regulating and coordinating local anti-trafficking activities (International Women's Rights Center "La Strada-Ukraine", 2004b: 10).

Centres Social Service for Youth (SSY) have been established by the Ukrainian government in every city. Such centres support victims through training courses, social work, and psychological consultations, provide courses for the unemployed and social work targeted at children and families (IOM, 2003: 237). SSY maintain databases on potential victims of trafficking, and provide counselling and preventive advice. Altogether, more than 1,800 public consultation centres are currently working on prevention and about 40 law centres provide free legal assistance to poor people (International Women's Rights Center "La Strada-Ukraine", 2004b: 10).

Among the various activities implemented under the above-mentioned Comprehensive Anti-trafficking Program for 2002-2005, two manuals, "Prevention of trafficking in people" and "Social Work on preventing trafficking in people and providing assistance to trafficked people", have been developed to raise awareness among secondary and higher education level students (International Women's Rights Center "La Strada-Ukraine", 2004b: 10). Awareness campaigns have been carried out on the national television and radio for the enlightenment of the general public on the potential risk of trafficking (International Women's Rights Center "La Strada-Ukraine", 2004b: 10).

Since 2000, the Ministry of Education of Ukraine and a network of 20 NGOs have conducted 1,200 lectures on anti-trafficking issues throughout Ukraine for more than 36,000 people from different target groups (OSCE Project Coordinator in Ukraine, *Anti-trafficking*).

Youth educational programmes, distribution of information materials, and conducting seminars and conferences are some of the awareness raising activities carried out by Ukrainian NGOs about the issue. From 2000 to August 2003, NGOs in Ukraine held 1,072 information sessions across the country, addressing over 32,000 people on the problem of trafficking in human beings (OSCE Project Coordinator in Ukraine, *Anti-trafficking*).

Another important anti-trafficking activity put in place by the Ukrainian government is state control over agencies offering employment abroad. Such control is responsibility of the Ukrainian Security Service, the Ministry of Labor and the Ministry of Interior. According to the Security Service, 287 prevention programmes have been carried out by the special division of this agency to prevent trafficking and illegal

migration related crimes (International Women's Rights Center "La Strada-Ukraine", 2004b: 15).

Services have also been set up to provide economic alternatives to women considering illegal work abroad: the State Employment Center has organised professional trainings to a great number of women; the curricula included information on the danger of trafficking, and the violence and abuses affecting illegal migrants (International Women's Rights Center "La Strada-Ukraine", 2004b: 10)²⁷.

International organisations and NGOs are also very active in anti-trafficking activities in Ukraine.

The OSCE Project Co-ordinator in Ukraine co-operates with the Ministry of Family, Youth and Children's Affairs, the Office of the Ombudsman and NGOs active in anti-trafficking activities. Such activities include: hotlines; education; and economic empowerment for vulnerable groups (OSCE Project Coordinator in Ukraine, *Anti-trafficking*).

The US Agency for International Development (USAID) "Trafficking Prevention Program" works with Ukrainian women's NGOs to provide job skills training, legal consulting services, and a public education campaign through Trafficking Prevention Centers located in Dnipropetrovsk, Donetsk, Kherson, Rivne, Chernivtsy, Lviv, and Zhytomyr. Additional activities include support for a hotline for returned victims, a victim assistance fund, and a joint project with the Ministry of Education on the development of a school curriculum on trafficking. Since 1998, under this program 44,850 women have received consultations or job skills training; 5,040 women have found work or received a promotion due to the job skills training program; 176 businesses had been created; 26,149 women completed trafficking prevention or domestic violence awareness training. USAID financed anti-trafficking drama "If I don't return" continues to be rebroadcast on different national, private, and local TV stations (USAID Kiev, *USDAID Regional Mission in Ukraine*).

3.7.2 Investigation and prosecution of traffickers

Ukraine has made serious efforts to combat trafficking in persons and prosecute traffickers. Both programmes set up by the Ukrainian Government in 1999 and in 2002 envisaged a series of measures to improve investigation and prosecution of traffickers.

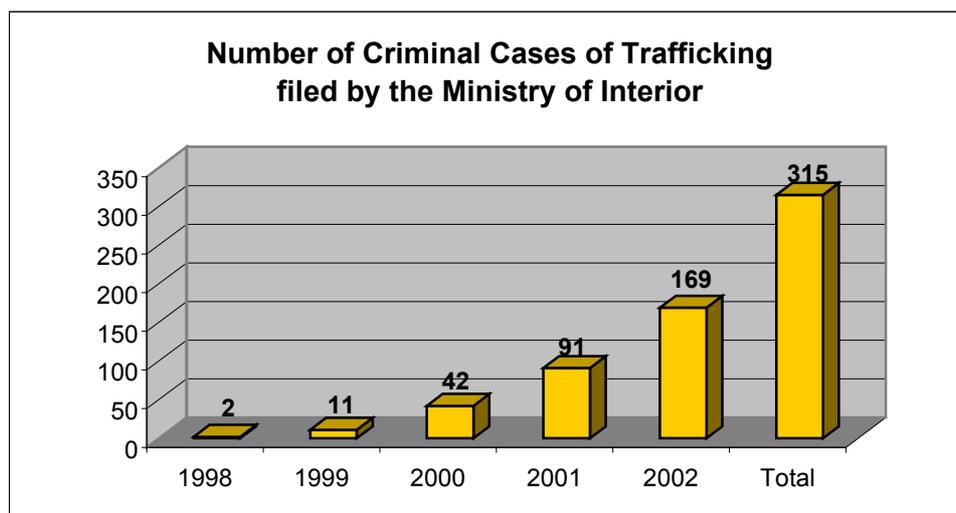
Special units to combat crimes related to trafficking in persons were created in February 2000, within the main Criminal Investigation Department of the Ministry of Interior and in the regional Interior Affairs Departments. Their responsibility is to prevent and detect trafficking in human beings, and currently over 170 counter-trafficking officers are working in such special units, operating at the local level in all *oblasts*. Each unit is provided with an "investigator", a lawyer responsible for reviewing all evidence and preparing the relevant criminal cases. Nonetheless, there are still deficits in the intelligence gathering capacities, due to bad equipment, inadequate training, inadequate information exchange among the various units, and

²⁷ According to International Women's Rights Center "La Strada-Ukraine", 1,630,600 women received professional training in 2003 (International Women's Rights Center, 2004c: 11).

lack of information technology capacities (IOM, 2003: 222 and 239). The Ukrainian Government has also made efforts in order to improve the position of the victim in criminal proceedings, by establishing for instance facilities where the victim can testify via video (IOM, 2002:7). In 2001, responsibility for investigation of offences was transferred from prosecutors to police investigators (Antislavery International, 2002: 201; and Nalyavaichenko, 2002).

Statistics on the number of trafficking cases investigated and prosecuted in Ukraine since the adoption of the anti-trafficking legislation in 1998 are not univocal. According to Antislavery International, from March 1998 to December 2001, 145 cases were initiated under articles 149 (and the previous 124-1) of the Criminal Code to prosecute traffickers. During January 2002, 8 cases were opened under article 149. Out of these 153 cases, 57 have been investigated and brought to trial. In 2001 alone, 129 suspected traffickers were arrested (60 men, 69 women). Only 10 cases resulted in convictions, while a significant number of cases was pending due to the lack of evidence (Antislavery International, 2002: 201). In addition, information from 11 cities show that the number of victims providing testimony against their traffickers raised from 84 in 2001 to 108 in the first seven month of 2002 (IOM, 2003a: 84).

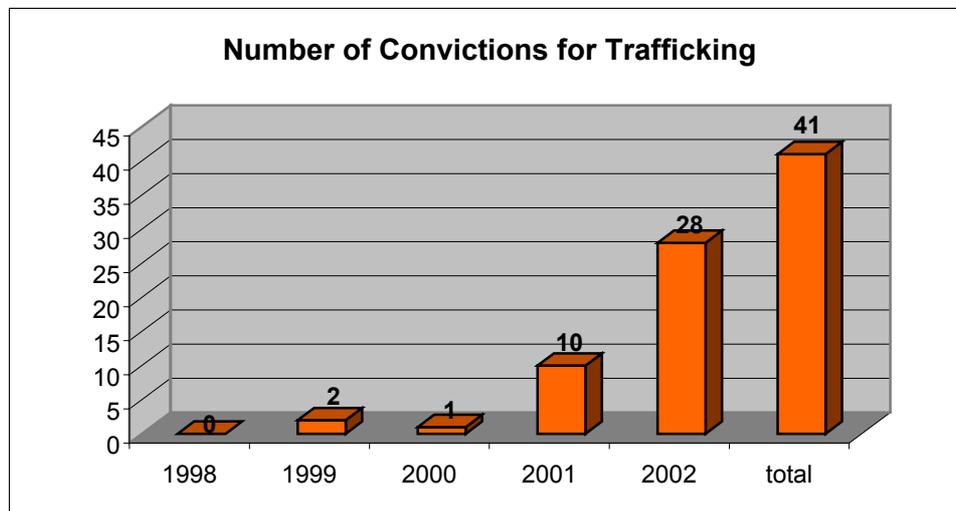
More recent figures show that from 1998 as of 20 March 2003, 315 trafficking cases had been filed by the Ministry of Interior: 2 in 1998, 11 in 1999, 42 in 2000 and 91 in 2001 (IOM, 2003: 242; and Strekalov, 2002: 60). Many other cases are under investigation²⁸. As underlined by IOM, an important distinction shall be made between the cases filed by the Ministry of Interior, and the cases ultimately brought to court. In fact, the police officers search evidences to be submitted to the “investigator”, who decides if the evidence is sufficient to bring the case to court. As demonstrated by these records, the number of prosecuted cases is steadily growing, showing the effectiveness of the Ukrainian legislation and law enforcement in the field of counter-trafficking.



source: IOM, 2003: 242.

28 In the period 1998-2002 investigative bodies completed investigation in more than 200 cases (Strekalov, 2002:60).

Regrettably, in comparison with the number of cases filed by the Ministry of Interiors, since the adoption of the counter-trafficking legislation in 1998 there have only been 41 convictions under article 149 and former article 124-1 (as shown in the table below) (IOM, 2003: 224).



source: IOM, 2003: 244.

The reasons for the little number of convictions must be searched – among others – in the scarcity of evidence, lengthiness of the criminal procedure, lack of experience of law enforcement and judicial agencies in regards to trafficking, and the above mentioned gap between the legislation and the procedures that should enforce legislation (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 13; Antislavery International, 2002: 203; and IOM, 2003: 243). Nevertheless, one must say that the number of convictions is steadily growing, showing the commitment of the Ukrainian law enforcement to effectively prosecute cases of trafficking in persons. In addition, during prosecution in 2003, 278 victims testified, against 202 in 2002 (US Department of State, 2004: 184).

3.7.3 Assistance and reintegration

Following the indications of the 2002-2005 Comprehensive Programme, the Consular Division of the Ministry of External Affairs have instructed the consular services abroad to accelerate the procedures for the identification of Ukrainian victims of trafficking and processing the relevant documents to facilitate their return home (O’Brian, van den Borne, Noten, 2004: 93; and IOM, 2003: 240).

According to the data provided by the Ukrainian Ministry of External Affairs, more than 317 women victim of trafficking were returned to Ukraine in 2003 alone, with the assistance of diplomatic and consular services abroad in cooperation with governmental and non-governmental organisations (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 16).

The lack of national rehabilitation programmes specific for minors victim of trafficking has been stressed by experts in the field. Nevertheless, international and local

organisations (among which ILO, IOM, La Strada-Ukraine, OSCE, Winrock International, World for Women, and USAID) have collaborated for the creation of centres and programmes for the rehabilitation of all victims of sexual violence and exploitation (O’Brian, van den Borne, Noten, 2004: 93).

To provide assistance to trafficked women and children, The Ministry on Family and Youth Affairs has developed the “Provision for Rehabilitation Centres for Victims of Trafficking”. Two such centres have been created in cooperation with IOM in Odessa and Kiev. In addition in 2003, five regional rehabilitation centres have been established in Crimea, Lviv, Volyn, Chernivtsi and Lugansk. In 2004, a new project has started at the Chernivtsi centre in cooperation with ILO, which includes medical, psycho-therapeutic and legal assistance to trafficking victims (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 16-17).

According to a survey conducted by the NGO “La Strada-Ukraine” in 2001-2003, trafficked women applied for help mostly at Ukrainian embassies in destination countries (35%) or through international organisations (32%) or NGOs (31%). Some victims were helped by parents calling the International Women’s Rights Center “La Strada-Ukraine” (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 51). It was usually through police raids or thanks to clients’ assistance that the victims decided to request assistance: 49% of respondents were afraid to return home (82% feared persecution by traffickers or recruiters; 3% feared the family would find out their experience; 9% feared that the family would not accept them back; or feared repercussion from their pimp 6%) (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 52).

On 1 November 2003, with the financial support of OSCE, the Ministry of Family and Youth Affairs in collaboration with the NGO La Strada-Ukraine launched a toll-free national hotline²⁹ (**8 800 500 22 50**) based at the International Women’s Rights Center “La Strada-Ukraine”, which provides information for Ukrainian nationals on travel abroad for employment, education, health treatment, participation of international events etc. (International Women’s Rights Center “La Strada-Ukraine”, 2004b: 10; and IOM, 2003: 237). The hotline, which is a two-channel telephone line (allowing thus two clients to receive consultations simultaneously) disseminates information about opportunities, conditions, rules and possible risks on employment abroad, especially violence and exploitation (International Women’s Rights Center “La Strada-Ukraine”, 2004a: 29; and International Women’s Rights Center “La Strada-Ukraine”, 2004: 8).

From 2000 to 2003, over 100 hotline consultants and volunteers from across Ukraine received intensive classroom and on-the-job training to equip them with the psychological skills and with relevant factual information. Training is provided on a regular basis, supported by the OSCE Project Co-ordinator in Ukraine and ODIHR, and is conducted by trainers from La Strada (OSCE Project Coordinator in Ukraine, *Prevention is key in fighting human trafficking*). Training seminars are also carried out for visa section employees of relevant consulates in Ukraine in order to increase

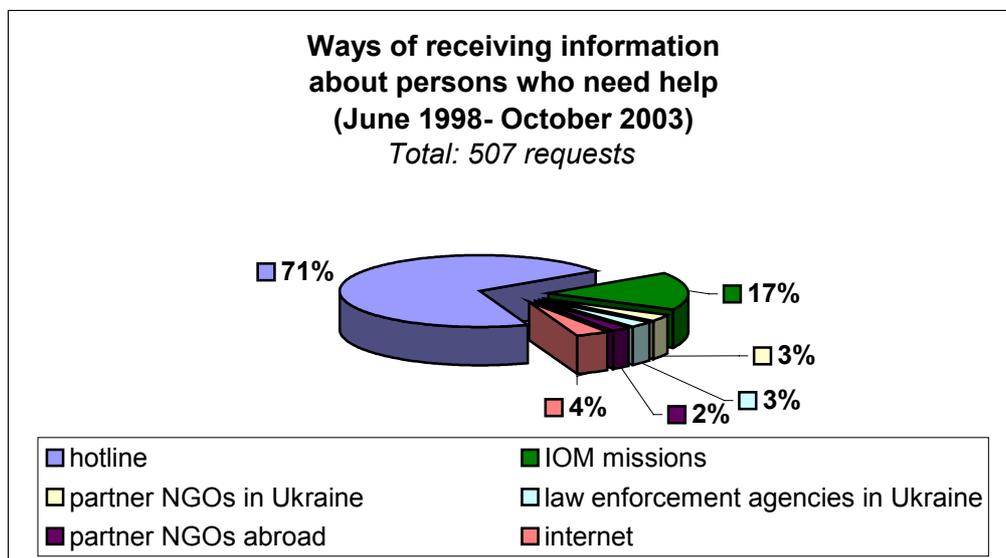
²⁹ La Strada-Ukraine established the first hotline in November 1997 in the framework of the programme “Prevention Trafficking in Women in Central and Eastern Europe”. working once a week. In April 1998 the service was enlarged and began to work daily except Saturday and Sunday. Since 2000, the hotline was carried out in the framework of a joint project with OSCE and the line has been working every day except Sundays. Since 1 November 2003, thanks to OSCE financial support, the calls to the national hotline within Ukraine are free (International Women’s Rights Center, 2004b: 28; and International Women’s Rights Center, 2004a: 8).

awareness, inform them of hotline activities and to receive updates on changes concerning visa regimes, residence and work permits (OSCE Project Coordinator in Ukraine, *Anti-trafficking*).

The hotline has proved a valuable tool to get in contact with women in need, or parents and relatives of people missing abroad (International Women’s Rights Center “La Strada-Ukraine”, 2004a: 29-31). In addition, on the Internet site of La Strada-Ukraine, is possible to receive on-line consultations (International Women’s Rights Center “La Strada-Ukraine”, 2004: 10). Since the establishment of the hotline in 1997, approximately 25,000 people have benefited from the hotline services (OSCE Project Coordinator in Ukraine, *Anti-trafficking*).

According to La Strada-Ukraine, the majority of the requests for help received through the hotline are from trafficking victims, relatives, and friends. Since June 1998 more than 1,000 requests concerning searched of Ukrainian women missing abroad have been received (International Women’s Rights Center “La Strada-Ukraine”, 2004a: 29-30).

From 2000 to 2002, thanks to the support of the Swedish International Development Cooperation Agency (Sida), IOM has provided reintegration assistance to nearly 500 victims of trafficking in close collaboration with the local police and other partners (IOM, 2002:6). IOM has a shelter with 14 beds in a hospital for medical and psychological rehabilitation of trafficked women and girls. Returned victims are hosted there for two or more weeks (ECPAT, *Country Profile*).



source: International Women’s Rights Center “La Strada-Ukraine”, 2004: 15.

As soon as the information of a person missing abroad is received by the hotline operator, the Center informs Consular Administration of the Ministry of External Affairs and the Ukrainian Embassy of the country where the missing person was living. The Center maintains that usually the location of the person is found out within

a six months period (International Women's Rights Center "La Strada-Ukraine", 2004: 15).

The national hotline has been promoted through a video spot, broadcasted by the National Broadcasting Company in Ukraine, and various leaflets, stickers, pens, posters, books, manuals and CDs, to reach the widest possible audience (International Women's Rights Center "La Strada-Ukraine", 2004: 19).

For more than three years, La Strada-Ukraine has worked in cooperation with six regional hotlines, which started their activity in 2000. During the period 2000-2003 seven training seminars have been carried out for regional hotlines consultants (International Women's Rights Center "La Strada-Ukraine", 2004: 22). In the period September 2002- December 2003 more than 19,000 calls have been received by the regional hotlines (International Women's Rights Center "La Strada-Ukraine", 2004: 43).

Finally, Centres of Social Services for Youth also operate their own hotlines, which are about 200 in total. Such services provide legal and social consultations, psychological trainings and disseminate information on legal protection of women (International Women's Rights Center "La Strada-Ukraine", 2004b: 10; and IOM, 2003: 237).

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