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UKRAINE: Tier 2 Watch List

Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to sex trafficking and forced labor in Ukraine, as well as in Russia, Poland, Turkey, the United States, and other parts of Europe, Central Asia, and the Middle East. Ukrainian women and children are subjected to sex trafficking within the country. Some Ukrainian children and vulnerable adults are subjected to forced begging. A small number of foreign nationals, including those from Moldova, Russia, Vietnam, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labor in Ukraine in a variety of sectors including construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and street begging. The approximately 82,000-200,000 children institutionalized in state-run orphanages are especially vulnerable to trafficking. Officials of several state-run institutions and orphanages are allegedly complicit or willfully negligent in the sex and labor trafficking of girls and boys under their care.

Fueled by Russia's aggression, the conflict in eastern Ukraine has displaced nearly two million people, and this population is especially vulnerable to exploitation. In areas controlled by the Russia-led separatists, the situation has become particularly challenging. Employment options are limited and separatist "authorities" have restricted international humanitarian aid that would help meet civilian needs. There have been reports of kidnapping of women and girls from conflict-affected areas for the purposes of sex and labor trafficking. In 2015, there were several reports of Ukrainian internally displaced persons subjected to trafficking, as well as Ukrainians subjected to forced labor on territory not under control of the central government. During the reporting period, a variety of sources, including the OSCE Special Monitoring Mission in Ukraine, reported children as young as 15 years old continued to take part in active combat as part of combined Russian-separatist forces. There were reports that children ages 15 to 17 were actively being recruited to participate in militarized youth groups that teach children to carry and use weapons. Children who excel in this training were encouraged to form their own reconnaissance and sabotage groups and begin to fight. A Ukrainian government official reported that one children's battalion associated with this training program, the St. George the Victor Battalion, may include children as young as 12 years old. The recruitment of children by militant groups took place on territory not under the control of the central government and in areas where the government was unable to enforce national prohibitions against the use of children in armed conflict. Russian-led

separatists also continued to employ children as informants and human shields during the reporting period.

The Government of Ukraine does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Ukraine is placed on Tier 2 Watch List for the fourth consecutive year. Per the Trafficking Victims Protection Act, Ukraine was granted a waiver from an otherwise required downgrade to Tier 3 because its government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards. During the reporting period, the government developed and approved a new national action plan and approved more applications for official victim status. However, several factors hindered the government's anti-trafficking efforts and capacity: corruption and weak rule of law; the drain on resources caused by Russian aggression; poor coordination at the national level; and a lack of understanding in government agencies about the issue. The number of trafficking convictions declined sharply, continuing a multi-year decline, and nearly 70 percent of convicted traffickers were not penalized with imprisonment. The government relied on foreign donors and NGOs to fund and provide most victim services.

RECOMMENDATIONS FOR UKRAINE:

Vigorously investigate and prosecute trafficking offenses, including public officials complicit in trafficking crimes, and ensure convictions result in proportionate and dissuasive sentences; provide adequate resources for and fully implement the 2016-2020 national action plan; certify more victims to ensure they are afforded their rights under the trafficking law; modify the procedure for granting victim status to lessen the burden on victims to self-identify and divulge traumatizing information; increase training for officials on victim identification, particularly in proactive screening of vulnerable populations, such as women in prostitution, children in sex trafficking, foreign migrant workers, and internally displaced persons; increase training for law enforcement, prosecutors, and judges in the investigation and prosecution of trafficking cases, including how to work with victims and gather evidence outside of victims' testimony; increase law enforcement monitoring of recruitment firms engaged in fraudulent practices that can lead to exploitation; and harmonize the trafficking law and the Law on the Legal Status of Foreigners to ensure foreign victims are entitled to remain in the country and access to victim services.

PROSECUTION

The government demonstrated weakened law enforcement efforts in pursuing trafficking cases. Article 149 of the criminal code prohibits all forms of trafficking and prescribes penalties from three to 15 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Law enforcement investigated 111 suspected trafficking offenses in 2015, compared with 109 in 2014. Authorities initiated prosecutions of 59 cases in 2015 under article 149, but provided no number for comparison to 2014. The government convicted 25 traffickers in 2015 under article 149, a continued decline from 57 in 2014 and 109 in 2013. Of the 32 convicted traffickers whose sentences came into effect in 2015, only 12 were sentenced to prison terms, which ranged from one to 10 years, and the government confiscated assets from six defendants. Authorities collaborated with foreign governments on transnational investigations, including Israel, Poland, and the United States. The government, in conjunction with international funding and partners, provided training for 250 judges, prosecutors, and law enforcement officers. NGOs reported many local officials including law enforcement officials are new, following elections, decentralization, civil service reform, and police reforms; consequently, they were not sufficiently aware of trafficking or trained in how to respond. Prosecutors' heavy reliance on the testimony of victims hindered successful prosecutions; victim testimony is an

unreliable foundation for prosecution as victims may decide not to testify in open court due to intimidation or be too traumatized to give consistent testimony. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses, despite reports of government corruption enabling trafficking and of official complicity in the sex and labor trafficking of children housed in state-run institutions and orphanages.

PROTECTION

The government demonstrated progress in some areas of protection. In 2015, an international organization assisted 740 victims, compared with 903 in 2014. The government identified 102 victims in 2015, compared with 86 in 2014, reversing a multi-year trend in declining victim identification efforts. Similar to 2014, law enforcement and other officials identified only nine percent of the victims referred to an international organization in 2015. The government received more applications requesting official victim status and approved a significantly higher proportion of them: authorities approved 83 out of 91 applications in 2015, compared with 27 of 48 in 2014. The government's current procedure to identify victims relies on the victims – often exiting traumatic situations – to self-report and provide evidence of their victimization; this procedure led many victims to refuse to go through the process. Observers reported police did not display a willingness to screen individuals in prostitution in Ukraine for signs of trafficking.

International donors continued to provide the majority of funding for anti-trafficking activities and assistance to victims. The government disbursed 46,300 hryvnia (\$1,900) to the national budget and 215,900 hryvnia (\$9,000) to local budgets for anti-trafficking measures in 2015, an overall decrease from 2014. Within the local budgets, 104,400 hryvnia (\$4,400) was allocated to fund NGOs. The government also provided each of the 83 officially recognized victims with financial assistance in the amount of 1,176 hryvnia (\$49). The trafficking law, "On Combating Trafficking in Human Beings," which outlines protection requirements for victims, entitles victims to receive free temporary housing at a government shelter, psychological assistance, medical services, employment counseling, and vocational training. Most victims requiring shelter stayed at a rehabilitation center run by an international organization. Adult victims could also stay at government-run centers for socio-psychological assistance for up to 90 days and receive psychological and medical support, lodging, food, and legal assistance. Women and men were accommodated in separate rooms. GRETA reported the provision of assistance was problematic due to funding shortfalls and shortage of trained staff. Non-governmental partners delivered assistance not provided by public social services. Child victims could be accommodated in centers for socio-psychological rehabilitation of children for up to 12 months and receive social, medical, psychological, education, legal, and other types of assistance; however, no child trafficking victims used these services in 2015. In November 2015, the government and an international organization trained the heads of each regional child welfare services office on identifying trafficking indicators among vulnerable children.

The trafficking law affords foreign victims the right to remain in the country, but that right is not explicitly incorporated into the Law on the Legal Status of Foreigners; as a result, foreign victims have had difficulties obtaining legal status to stay in Ukraine and be eligible to receive ongoing access to victim services. Authorities did not identify any foreign victims in Ukraine in 2015. The government drafted legislation to amend employment laws to allow certified foreign victims to work legally, as provided in the trafficking law; these amendments were not submitted to the legislature by the close of the reporting period. In 2015, 66 victims participated in the prosecution of alleged traffickers. Authorities provided physical security to four victims and provided identity changes for three victims assisting prosecutions in 2015. Courts have the authority to order compensation for victims that sought restitution, but corruption, unavailability of assets, and low effectiveness of the enforcement process hampered the administration of these decisions. Courts

ordered 290,000 hryvnia (\$12,100) in restitution to victims in 2015. Various protective measures were available inside courtrooms for victims who testified at trial, but in practice, authorities rarely applied these measures and often did not treat trafficking victims serving as witnesses in a victim-sensitive manner.

PREVENTION

The government demonstrated mixed progress on prevention. The government approved its 2016-2020 national action plan in February 2016, and the Ministry of Social Policy (MSP) published an annual report on government anti-trafficking activities in 2015. In January 2016, ministries signed a joint order to create a unified database of statistics on trafficking crimes. Authorities developed an array of awareness campaigns, which particularly targeted young individuals seeking employment abroad. The government's ability to conduct labor inspections drastically declined in 2015 due to funding reductions and new rules governing inspections. MSP continued to publish a list of licensed recruitment companies. There were no criminal cases related to trafficking against recruitment agencies in 2015. The government conducted counter-trafficking pre-deployment trainings for Ukrainian troops assigned to multinational missions and provided anti-trafficking training for its diplomatic personnel. The government did not demonstrate specific efforts to reduce the demand for commercial sex acts and forced labor.

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