



RECOMMENDATIONS

The following recommendations are based on the findings of the assessment but also consider proposals that were brought forward by key stakeholders. The recommendations mainly address the following points:

1. Strengthening referral procedures, all tailored to the specific Ukrainian context;
2. Possible interventions for strengthening governmental authorities' and NGOs' capacities within the NRM.

Due to the fact that most recommendations concern several different groups of stakeholders, the need of their involvement is indicated by markers in parentheses according to relevance.¹³⁴

Strengthening referral procedures, all tailored to the specific Ukrainian context

General

- To develop a national referral system with clear referral structures in each oblast. Multidisciplinary teams should be established and responsibilities and competencies should be assigned according to different mandates of all actors involved. Regional authorities, in partnership with local NGOs, should be in a position to properly protect the rights and address the needs of trafficked persons within the framework that envisages identification process as part of the protection and support programme. Where no NGO partners are available at oblast level, social authorities should be tasked to provide adequate assistance and support to trafficked persons. The UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking may provide guidance in working out such structures. (G, R, S, C, L, m, i)
- To strengthen the role of regional councils on combating trafficking in human beings so that they can serve as networks, which allow for efficient information

¹³⁴ Groups of stakeholders are listed in the order of priority/relevance; also, in case of stakeholders who should take the responsibility for or a leading role in implementing respective provisions, the markers are capitalised, while those who need to be involved to a lesser degree (e.g. in a consultative/advisory capacity) are indicated in lower case. Such prioritisation should not be viewed as giving more importance to this or that institution in the system of governance. The markers used in these Recommendations are as follows:

- C – civil society organisations, not only anti-trafficking NGOs
- G – central government
- I – international organisations, donor/development agencies
- J – judiciary, at different levels and jurisdictions
- L – law enforcement, including the border guard service
- M – individual ministries or other governmental agencies/services
- P – parliament
- R – regional/local authorities
- S – social services providers

dissemination and feed-back mechanisms among actors within the referral system. (R, g, s, c)

- To set up an effective referral mechanism for child victims of trafficking, which should be part of the general NRM. When developing procedures and co-operation structures for the protection of the rights of trafficked children, the stakeholders should be guided by the UNICEF Guidelines on the Protection of Child Victims of Trafficking. (G, S, R, C, I, i)
- To adopt policies and specialized programmes to safeguard the rights and interests of trafficked children. Procedures for special protection measures of trafficked children should be incorporated in all components of the NRM, particularly in the identification process, the provision of support and assistance, return and reintegration procedures as well as in relation to access to justice. State Social Service for Family, Children and Youth, the Ministry of Education and Science, as well as the Ministry of Health Care together with the oblast state administrations, notably the Services for Children Affairs should be clearly tasked and actively assume responsibility to properly respond to the needs of trafficked children. (S, M, L, r, g, j)
- To ratify and implement the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention provides a good balance between the protection of human rights of trafficked persons and prosecution of traffickers. The explanatory report to the Convention serves as guidance for the interpretation of different provisions, including the definition of trafficking in human beings, which is identical with the one of the Palermo Protocol. (P, G, c, j, i)
- To lobby for amendments to the Budget legislation so that it contains a clear reference to combating trafficking in human beings, allowing for adequate targeted funding of activities in this field and to strengthen the capacities of governmental and non-governmental actors working with trafficked persons. Therefore, changes should also aim at the provision of opportunities to directly fund NGOs providing assistance to trafficked persons. (G, P, m, c)
- To support the initiative to develop a comprehensive law on combating trafficking in human beings, which should apply to all forms of trafficking in human beings and design a comprehensive framework for the protection of and assistance to trafficked persons and witnesses by addressing all aspects of an NRM to guarantee the protection of the human rights of trafficked persons. (G, P, C, I, j, i)
- To establish a mechanism to monitor and evaluate the human rights impact of laws, policies, activities including programmes and interventions related to trafficking in human beings at central and oblast level. It is acknowledged that the Inter-Agency Council is tasked to initiate an implementation monitoring of state targeted programmes. The importance is to develop a monitoring mechanism which allows for a constant process of improvement of anti-trafficking

measures. Given the crucial role of local NGOs in the field of victim assistance, they should be encouraged to participate in monitoring and evaluating the human rights impact of measures. In order to assess the effectiveness of measures, clear indicators should be developed to better identify the gaps. (G, C, R)

- To increase the capacities of governmental and non-governmental actors working with trafficked persons, so that they can effectively contribute to the NRM structure. This may include increase of qualified personnel to better pursue co-ordination functions, provision of material assistance, availability of in-house training on specific aspects of trafficking in human beings (e.g. law enforcement agencies, social services providers, judiciary, MFA). Training programmes should be developed on the basis of identified needs. (G, M, R, C, i)
- To include general aspects of trafficking in human beings into the training and professional development curricula for social workers, medical professionals, police officers, employment/labour sector specialists and pedagogues. (M, G, S, R, c, i)
- To conduct a research on Ukraine as destination country for trafficking in human beings (both in the case of trans-border and domestic trafficking) in order to obtain a clear picture on the dimension and trends of this phenomenon and to allow for the development of appropriate responses. (G, c, i)
- To ensure that the State Programme and Regional Programmes include all main elements, which are important for the implementation and monitoring of programmes, in particular performance indicators and detailed funding information. The Cabinet of Ministers Decree No.106 of 31 January 2007 '*On the Drafting and Implementation of the State Target Programmes*', which is applicable to State Programmes, may also serve as model for the development and implementation of Regional Programmes. (G, R, m, c, i)
- To ensure that each Regional Programme aims at supporting the regional network of actors participating in the referral system. (R, G, c, s, l)

Identification of presumed trafficked persons

- To best expand the identification mechanism in order to enable all target groups to access support services. Bearing in mind that the phenomenon of trafficking in human beings affects women, men and children, various institutions (including law enforcement agencies, social authorities and respective social/health care institutions, educational institutions, the employment sector, labour inspection as well as NGOs) who may establish contacts with presumed trafficked persons should actively participate in the procedures and reach out for the target groups. (G, M, R, S, L, c, i)
- To cover all types of exploitation mentioned as constituents of trafficking in human beings and to consider aspects of both national and trans-national trafficking when developing methods of identifying trafficked persons. In

particular, increased focus need to be made on the labour dimensions of trafficking. (G, L, S, C, m, i)

- To set up a network of informed stakeholders coming in contact with presumed trafficked persons. In order to do so, the terms of references for each institution should be adjusted according to the agreed identification mechanisms. (M, G, S, C, R)
- To sensitise specifically representatives of those stakeholders who may establish contacts with presumed trafficked persons but who have not yet participated in the identification mechanism, such as the personnel of social authorities, educational institutions (including pedagogues and school psychologists), employment centres, and labour experts (including labour inspectors), on the phenomenon of trafficking in human beings and with topic-related facts and train them on how to identify trafficked persons. (M, G, R, S, c, i)
- To ensure that the legal basis for the identification of trafficked persons is clear and understandable in order to avoid conflicting interpretation of legal provisions in the different oblasts or among different stakeholders. The Explanatory Report on the Council of Europe Convention on Action against Trafficking in Human Beings may serve as a good basis for the development of respective guidelines. (G, P, c, i)
- To encourage presumed trafficked victims to reveal their experiences. The identification should rest on the definition of trafficking in human beings while the identification process should be independent of any criminal proceedings against the perpetrators. (S, L, C, g)
- To abolish the administrative provision against prostitution as it demonstrates a barrier for victims to report cases of trafficking to the police. (L, P, j, g)

Co-operation

- To enhance the co-ordination of combating trafficking in human beings through setting up a national authority (e.g., National Anti-trafficking co-ordinator), with the task to plan, co-ordinate, and monitor the implementation of the State's anti-trafficking efforts, and to co-ordinate such activities with the civil society groups and IOs. (G, P, I, s, c, m, i)
- To develop co-operation structures among governmental and non-governmental institutions under the auspices of the NRM, which may include the conclusion of formalised agreements between two or more partners to secure clear division of roles, responsibilities and funding of services. Such structures will strengthen the efforts to harmonise criminal prosecution with protecting the human rights of victims. (G, M, C, S, R)
- To make use of already existing co-operation mechanisms when developing regional co-operation structures within the NRM. (M, R, S, C, g, I)

- To evaluate the existing management of cross-border co-operation among governmental institutions for the purpose of identifying suitable mechanisms and structures to build up. These mechanisms are desperately needed to improve not only the exchange of information but also to identify means to speed up the lengthy procedures, which are currently in place. (G, L, C, i)
- To assist NGOs in their efforts to establish the necessary contacts in the main destination countries and countries of origin in order to facilitate the repatriation and social inclusion of trafficked persons. (G, C, I, s)

Support and protection services

- To guarantee that all trafficked persons have equal access to specialized services (e.g. health care, psychological assistance, legal aid, educational and other vocational training, employment assistance) at any stage regardless of their registered place of residence in Ukraine, sex, age, legal status, etc. (G, S, L, C, r, m)
- To apply equal criteria for referral of trafficked persons to social services providers across the country. (S, R, G, M, L, C)
- To develop and maintain a database of available social and other specialized services for trafficked persons in the non-governmental and governmental sector in each oblast. (R, S, C, g)
- To identify counselling centres (drop-in centres) in all oblasts, which provide initial counselling to presumed trafficked persons, assess social, medical and psychological needs and refer trafficked persons further to shelters and/or providers of specialized services, if needed. These counselling centres may be well-placed to maintain the database on available services in each oblast. (S, R, C, g)
- To revise the Law on Social Services so that it also identifies trafficked persons and their immediate family members as a category eligible for being provided with social services. This will allow social authorities to single them out from the rest of clients and provide specialized care. (G, P, S, c)
- To establish support mechanisms in all oblasts for female and male trafficked persons, as well as for trafficked children. (S, G, M, R, C, L)
- To pay special attention to the protection and assistance needs of trafficked children. Protection measures must be based on the four general principles, *i.e.* the best interest of the child, child participation, non-discrimination of children and the right to life and development. (S, L, J, C, r, m, i)
- To remove any legal or other obstacles which prevent social authorities in the oblasts to respond to the specific needs of trafficked persons. This may imply *i.a.* a revision of terms of references so that social service centres, employment centres, educational institutions, health care providers and services for children affairs are able to assume responsibility for protecting the human rights of trafficked persons.(S, R, M, g, c)

- To provide for specific legal provisions which guarantee that trafficked persons who are not Ukrainian nationals receive adequate protection and assistance. This will allow them to have a free choice and make an informed decision on their return and co-operation with the law enforcement authorities. (L, P, g, j, c, i)
- To secure sustainable funding of the services provided by members of the NRM in all oblasts in order to maintain equal quality standards. (G, R, S)
- To ensure timely disbursement of funds for the provision of the protection and assistance services to secure the protection of human rights and interests of trafficked persons. (G, R, p)
- To provide for a legal basis and specific procedures which ensure the protection of trafficked persons not only during but also following a trial. (P, G, I, j)

Return procedures – Repatriation and social inclusion

- To create a mechanism for the return of trafficked Ukrainian citizens in safety and with dignity involving more actively the Ukrainian missions abroad and social services providers in both countries. The overall aim should be to ensure that prior to any return and reintegration measures the risks can be properly assessed and to avoid deportation of trafficked persons. (M, G, S, I, c, i)
- To set up a national procedure for the review of the repatriation and social inclusion of non-Ukrainian trafficked persons in their country of origin. Any return should be based on the victims' willingness and ability to return. This ability should be assessed in view of legal, humanitarian and/or factual reasons, which may no longer guarantee a safe return. The concept of risk assessment should be applied similar to the principle of non-refoulement. (G, L, c, i)
- To ensure that the decision making process on the return is being conducted by both the authorities and the trafficked person so that the return can take place in safety and with dignity. (L, G, j, s, c)
- To build up case teams to assess the risks and to make accessible solid and reliable country of origin information to all actors involved in the risk assessment. The case teams should be composed of representatives of law enforcement authorities and social services providers (preferably, representatives of NGOs), as well as the trafficked persons themselves. Only in such circumstances will the trafficked persons be in a position to make an informed decision for a durable solution. (L, S, C, g)

Access to justice (including compensation and victim / witness protection)

- To secure access of all trafficked persons to proper legal aid free of charge. (P, G, j, I, r)

- To encourage more trafficked persons to reveal their experiences to law enforcement agencies and to testify through ensuring that they are properly informed about their rights and entitlements, including the protection measures. (L, j, s, c)
- To ensure that security arrangements prescribed by law are properly being applied in practice. (L, g, j)
- To secure the victim's right to compensation of material and moral damages as well as for withheld earnings and to guarantee compensation. (G, P, J, I)
- To create a national network of qualified lawyers who provide legal assistance to trafficked persons in order to effectively protect the rights and interests of trafficked persons. (G, C, j, i)
- To support the proposals made by the Supreme Court for a revision of the CPC aiming at simplifying pre-trial investigations and court consideration as well as improving the status of a victim. The latter involves the mandatory participation of a representative of the victim (*i.e.* a professional advocate) during pre-trial investigation and court consideration of the case on public expenses. (P, J, G, I)
- To expedite the completion of the review of court practice in trafficking in human beings cases conducted by the Supreme Court, and to adopt a relevant Resolution of the Plenum of the Supreme Court on this issue, which should help reduce the present confusion among law enforcement agencies and local courts, which has often led to difference in interpretations. (J, I)
- To support the efforts to develop a compensation law, which also considers the establishment of a compensation fund for victims. Such State fund should be used to guarantee the victims' right to compensation and provide them with access to social assistance and social integration. It should not be dependent on international funding but could be funded, at least in part, by confiscated assets of criminal origin. It should form an integral part of a comprehensive framework to ensure that no categories of trafficked persons are being excluded as beneficiaries. (G, P, S, L, j, c,)
- To introduce the legal possibility of not imposing penalties on trafficked persons for their involvement in unlawful activities, to the extent that they have been compelled to do so. (P, j, I)

Data protection

- To store personal data of trafficked persons only if it is deemed absolutely necessary and do so only by those institutions that can be held accountable for securing internationally recognised data protection standards. (G, L, S, C, j, r, m)
- To apply stringent procedures for data sharing in order to safeguard the integrity of personal data of trafficked persons. It should be guaranteed that the processing (compilation, recording, storage, correction, erasure, and transmission) of personal

data is carried out respecting the trafficked persons' right to privacy and always upon consent of such persons, *i.e.* such individual shall have the right to know that information is stored on her/him, to obtain communication of the data relating to her/him recorded in the database and, if necessary, to have it corrected. (G, L, S, J, C, R, m)

- To ensure that any activity related to the collection of personal data has to abide by fundamental principles of confidentiality and data protection standards. (G, L, S, J, C, R, m)
- To ratify the Council of Europe Convention for the Protection of Individuals With regard to Automatic Processing of Personal Data and its Additional Protocol. The Convention is the first binding international instrument protecting the individual against abuses. It provides *i.a.* guarantees in relation to the collection and processing of personal data and in the absence of proper legal safeguards outlaws the automatic processing of sensitive data such as on a person's race, political opinions, health, religion, sexual life, criminal record. (P, g, l)
- To adjust national data protection legislation according to international standards and best practice. This should include *i.a.* the establishment of a mechanism for trafficked persons to access their data and to rectify it. (G, P, j)
- To encourage all actors involved in the collection, storing and processing of personal data on trafficked persons to review their present procedures against the background of the conditions laid down in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Where necessary, measures should be implemented to prevent unauthorised reading, copying, modification or erasure of data recorded in the database during both the direct transmission to or from the database (control of access) and to avoid exposing trafficked persons to potential danger, discrimination and stigmatization as a result of unauthorised disclosure of their personal data. (G, M, R, L, J, s, c)

Possible interventions for strengthening governmental authorities' and NGOs' capacities within the NRM

- To identify funding opportunities for the provision of assistance and support to trafficked persons. The responsibility for the protection of the rights of trafficked persons lies with the Government, thus, it has to make every effort that the costs involved for a well-functioning NRM are met. At present, international funding is being provided in almost all areas of victim assistance. Since international funding is usually temporary, the Government should consider means for increasing national funding capacities in order to guarantee the sustainability of assistance provision. (G, R, c, s, i)
- To develop new and implement already existing training programmes on combating trafficking in human beings for all members of the NRM at central and regional/

local level together with actors who in the past have provided training in this field/ are planning to do so in future, notably international and regional institutions (e.g. ILO, OSCE, IOM), as well as NGOs, in order to avoid any duplication or overlapping of activities. These training programmes should take into account the existing knowledge of actors. First and foremost, sensitivity to and basic training on the issue will be needed for actors of institutions who may have contact with presumed trafficked persons but are not specialists in human trafficking matters (e.g. staff from the employment/labour sector, educational institutions, state border guard services, Ukrainian embassies/consulates abroad, social services centres, health care institutions, services for children affairs) so that they are capable to identify and refer victims. Besides, immediate training needs have been identified *i.a.* in connection with the identification and treatment of child victims of trafficking. Sensitivity to the rights of trafficked children should be promoted in all areas. (G, M, I, C, I, s)

- To ensure the provision of ongoing training for all actors involved in the identification process and in the provision of support and assistance, preferably in a multidisciplinary manner. Existing professional development programmes should include customised components on addressing the problem of trafficking in human beings. (M, G, S, c, r)
- To guarantee that training activities are effective, hence it is important to minimise the turnover of staff. (M, R, S, L, g)
- To identify international and national financing sources for NGOs participating in the NRM in order to ensure the sustainability of their services. The Government should actively support fund-raising activities of NGOs, as well as facilitate the establishment of contacts with potential donors, including Embassies, the European Union and other regional and international organisations and institutions. Promotion of the involvement of the private sector funding anti-trafficking efforts should be given special attention as a potential source of funding. (G, R, C, I, s)
- To provide training for NGOs on how to raise funds, with special focus on partnerships with the public authorities and the private sector. (G, I, I, c)
- To facilitate cross-border contacts of NGOs with national NGOs in countries of destination and origin. (G, I, I)
- International and regional organisations/institutions should make every effort to harmonise their activities in the field of trafficking in human beings in order to effectively address the pertaining needs. This applies to all areas of support, be it in relation to training activities, the provision of material support, projects on victim assistance or targeting presumed trafficked persons. (I, g, c)

