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تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦
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تقرير مقدم من المقرر الخاص المعني بمسألة بيع الأطفال واستغلالهم في البغاء
وفي المواد الخليعة، السيد خوان ميغيل بيتيت

إضافة

البعثة التي قام بها إلى أوكرانيا**

* يُعمم موجز تقرير هذه البعثة بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق الموجز، فيُعمم باللغة التي قُدم بها وباللغة الروسية فقط.
** تأخر تقديم هذا التقرير لكي يتضمن قدر الإمكان أحدث المعلومات.

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موجز

قام المقرر الخاص المعني بمسألة بيع الأطفال واستغلالهم في البغاء وفي المواد الخليعة بزيارة أوكرانيا في الفترة من ٢٢ إلى ٢٧ تشرين الأول/أكتوبر ٢٠٠٦. وركزت زيارته على العاصمة كييف وضواحيها.

وتشهد أوكرانيا فترة تاريخية من التحول والتحديات وتجد نفسها عند مفترق طرق، ليس من الناحية السياسية فحسب، إذ ينبغي أن تحدد وجهتها إما نحو أوروبا أو الاتحاد الروسي، بل أيضاً من حيث كيفية نظرتها إلى حماية مواطنيها المستقبليين، ألا وهم أطفال اليوم.

وعلى الرغم من التغييرات التي حدثت في أوكرانيا في مجال حماية الأطفال خلال السنوات الأخيرة والكثير من المعلومات الجيدة في هذا المجال مثل، سن مجموعة من القوانين والأحكام المتعلقة بحقوق الأطفال، ووضع عدد من خطط وبرامج العمل الوطنية، التي تمثل حُرط طريق لتنفيذ السياسات المتصلة بحقوق الأطفال، فإن بعض المشاكل الأخرى التي تؤثر على الأطفال لا تجد في نفس الوقت المعالجة الملائمة، لا سيما الاتجار بالأطفال، وبغاء الأطفال واستغلالهم في المواد الإباحية.

ويشعر المقرر الخاص بالقلق إزاء ازدياد عدد الأشخاص الذين يغادرون البلد بحثاً عن مستقبل أفضل في الخارج، وفقاً للإحصاءات التي تشير إلى تناقص عدد السكان. فالاستبعاد الاجتماعي والتمييز والوصم تجتمع وتتفاعل كعوامل مساهمة وأسباب جذرية للتعرض للاتجار والاستغلال الجنسي. والفئات المعرضة لمخاطر أكبر هي: أطفال الأسر المفككة والفقيرة ذات المستوى التعليمي المتدني، وأطفال الشوارع، وضحايا الاستغلال الجنسي والعنف الأسري، والأطفال الموجودون في مؤسسات الرعاية أو الذين غادروها حديثاً.

ويمثل الفساد مشكلة على جميع مستويات الإدارة العامة، ويقوض جهود إنفاذ القانون وتوفير الخدمات الاجتماعية وقدرة الدولة إجمالاً على منع انتهاكات حقوق الإنسان والانتصاف لضحاياها. ويشجع المقرر الخاص الحكومة على التصدي بحزم لهذه المشكلة. كما لاحظ المقرر الخاص عدم وجود نظام قضاء أحداث مستقل، وقدم توصيات تتعلق بإنشاء نظام من هذا القبيل، فضلاً عن إنشاء آليات أخرى لحماية حقوق الأطفال بصورة أفضل ومحاربة الاتجار بالأطفال وبغاء الأطفال واستغلالهم في المواد الإباحية.

ولا يزال المقرر الخاص يشعر بالقلق إزاء افتراض كثير من الناس أن الدولة هي الجهة التي عليها أن تضطلع بجميع السياسات الاجتماعية ومراقبتها وتنفيذها. وعلاوة على ذلك، فإن تعدد الجهات الفاعلة التي تشترك في تقديم المساعدة والرعاية للأطفال يتسبب في خلق أوضاع يؤدي فيها تشعب الاختصاصات والمسؤوليات إلى إعاقة تحقيق الغاية التي تصبوا إليها هذه الجهات الفاعلة نتيجة للقيود المفروضة على ولاياتها، وخشية التدخل في مجالات تتعلق باختصاصات أخرى.

ويعتقد المقرر الخاص أن دور الدولة يتمثل في إتاحة الفرص وتقديم المبادرات ووضع السياسات من أجل تمكين الجهات الفاعلة المعنية مثل، المنظمات غير الحكومية، والمنظمات الدولية والمجتمع المدني من المساهمة والاشتراك في حماية الأطفال والقُصّر. وهذه التعددية في العمل لن تكفل للأجيال القادمة مستقبلاً أفضل فحسب، بل تؤدي أيضاً إلى تعزيز الديمقراطية بشكل عام. وبهذا المعنى، من الأهمية بمكان أن تجد مبادرات المنظمات غير

الحكومية والمبادرات الخاصة المتعلقة بحماية حقوق الأطفال، الدعم والتمويل من الأموال العامة، حتى لا تتبدد بسبب بيروقراطية الدولة ولا تصل مطلقاً إلى الأشخاص المحتاجين. ووجد المقرر الخاص أن المنظمات الخاصة التي تعمل من أجل حماية الأطفال تواجه العديد من الصعوبات والتحديات التي تعوق قدرتها على الوصول إلى المحتاجين، في الوقت الذي ينبغي فيه للدولة، على النقيض من ذلك، أن تشجع وتدعم هذه المبادرات لأنه يتعين على الجميع العمل من أجل تحقيق نفس الأهداف.

Annex

**REPORT SUBMITTED BY THE SPECIAL RAPPOREUR ON THE
SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD
PORNOGRAPHY, JUAN MIGUEL PETIT, ON HIS MISSION TO
UKRAINE (22-27 OCTOBER 2006)**

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I. INTRODUCTION

1. The Special Rapporteur conducted a country mission to Ukraine from 22 to 27 October 2006. He would like to thank the Government of Ukraine for allowing him to undertake a fruitful visit. The Special Rapporteur expresses his gratitude to the United Nations Office in Ukraine for its assistance in the organization of the agenda, and would also like to thank the Resident Coordinator and the agencies of the United Nations Country Team (UNCT), especially United Nations Children's Fund (UNICEF) and International Organization for Migration (IOM), for their interest in his visit.

2. The mission visited the capital city, Kiev, and its surroundings. The Special Rapporteur had over 40 meetings and direct contact with more than 100 persons. He met representatives of the government authorities and the judiciary. In particular, he was honoured to meet with the Minister of Family, Youth and Sports, as well as with the Minister of Justice. The Special Rapporteur also met with the Deputy Ministers of Foreign Affairs, Internal Affairs, Education and Science, as well as Labour and Social Policy. The Special Rapporteur also met with representatives of several committees of the Verkhovna Rada (Parliament) and judges from the Supreme and Constitutional Courts. He also met with the Deputy Prosecutor-General and several police officials working in the fields of trafficking, young offenders and international cooperation (Interpol).

3. The Special Rapporteur would like to express his appreciation to the many non-governmental organizations (NGOs), as well as academics and research institutes he was able to meet. He would like to thank them for their active role in the preparation of his visit and useful suggestions to the agenda.

4. In addition to meetings with public authorities and civil society, the Special Rapporteur visited several orphanages and shelters for children in difficult situations, and a rehabilitation facility for victims of trafficking run by IOM and local partners. He also conducted field visits at night-time in places where prostitution takes place and where street children live.

II. HISTORICAL BACKGROUND

5. Ukraine is living a historical moment of transformation and challenges. Fifteen years after the dissolution of the Soviet Union and its access to independence, many achievements are to be acknowledged and much remains to be done in building and sustaining a democratic and equitable society. The "Orange Revolution" which brought President Yushchenko to power in December 2004 brought along high hopes of structural changes and orientation towards European integration.

6. The Special Rapporteur hopes that his findings and recommendations will contribute to further enhance democratic reforms at a time when the country is undertaking profound structural changes.

7. Ukraine recently extended a standing invitation to thematic special procedures. This facilitated this visit of the Special Rapporteur, the first visit of a special procedure mechanism established by the Commission on Human Rights, now replaced by the Human Rights Council.

The Special Rapporteur believes that the experience of this first visit will facilitate cross references between this report and future visits by Special Procedures assumed by the newly-established Human Rights Council and will strengthen the consistency of findings and ultimately result in a comprehensive set of recommendations that should be followed up, taking into account their interdependence.

8. The State party report presented by Ukraine to the Committee on the Rights of the Child in consideration of reports submitted by States parties under article 12 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,¹ as well as the Alternative Report prepared by Ukrainian NGOs² informed about the terms of reference of the visit.

III. LEGAL FRAMEWORK

9. Ukraine is a party to six of the seven major human rights treaties, including the two International Covenants, the first Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention on the Elimination of Discrimination Against Women, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Ukraine has accepted the procedures for individual complaints under CAT (Committee against Torture) and CERD (Committee on the Elimination of Racial Discrimination). Ukraine is also party to the ILO Conventions No. 138 (1998) and No. 182 (2001), the Convention for the suppression of traffic in women and children and the Protocol to amend the Convention for the suppression of traffic in women and children, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and its Final Protocol. As well, Ukraine in 2000 ratified Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. Ukraine did not sign or ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (a draft law for adherence to this Protocol is being prepared), the Optional Protocol to the Convention against Torture, the United Nations Convention against International Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

¹ Committee on the Rights of the Child, State party report of Ukraine under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/UKR/1), 2006.

² Alternative Report on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography prepared by Ukrainian NGOs, October 2006.

11. Everyone is entitled, after exhausting all national remedies of legal protection, to appeal for the protection of his rights and freedoms to the international judicial institutions or to the appropriate organs of international organizations of which Ukraine is a member or in whose work it participates. Thus, on 11 September 1997 the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols Nos. 1, 2, 4, 7 and 11 to the Convention came into force for Ukraine, making it possible for Ukrainian citizens to appeal to the Council of Europe and European Court of Human Rights if their justified demand for the restoration of their rights and lawful interests has not been satisfied through application to the national mechanisms for their protection.

12. In terms of bilateral cooperation, the Ministry of Internal Affairs has prepared 14 intergovernmental agreements on cooperation against organized crime that regulate, inter alia, human trafficking and illegal migration. These include agreements with the Czech Republic, France, Hungary, Israel, Moldova, Poland, Romania, Sweden and Turkey. Actions to combat human trafficking are regulated by interdepartmental agreements. From 1998 to 2003 such agreements were signed with the Czech Republic, The former Yugoslav Republic of Macedonia and the United Kingdom of Great Britain and Northern Ireland, and on cooperation against organized crime and especially human trafficking with Greece.

13. The protection of children and youth is enshrined in the Constitution of 1996 which is the underlying basis assuring the rights of children. Pursuant to article 52 of the Constitution, children have equal rights regardless of their origin and whether or not they were born in wedlock. The Constitution also has provisions recognizing the honour and dignity of human beings as the highest social values (art. 3), the protection of motherhood and childhood (art. 51). Articles 28 and 52 of the Constitution guarantee the rights of children to be protected against all forms of abuse or ill-treatment. Pursuant to these articles, "no one should be subjected to harassment or cruel, inhuman or disrespectful treatment or punishment".

14. Ukrainian laws also provide for the protection of children from violence, guaranteeing all children the right to freedom, inviolability of their person and protection of their dignity. The State is entrusted by the Ukrainian Child Protection Act with the responsibility for the protection of the child from all forms of physical and mental violence, cruel and degrading treatment, exploitation, including sexual abuse, including from their parents or persons acting in their stead, coercion into prostitution or begging, involvement in gambling, etc. Protection of children from all forms of domestic violence is ensured by the Ukrainian Domestic Violence (Prevention) Act. The act is intended to protect the lawful rights and interests of children who have parents and live in families and of orphans deprived of parental care and raised in the families of tutors and guardians, or in adoptive families or family-type children's homes, in all cases where violence is enacted against them or where there is a real threat of such violence.

15. The Ukrainian Criminal Code mentions the elements indicating the commission of an offence in the activities of adults relating to trafficking in children, child prostitution and child pornography. Article 149 defines exploitation of people. Exploitation in this article covers all forms of sexual exploitation in the pornography business, forced labour or the forced provision

of services, slavery or slavery-like practices, holding persons against their will, luring into debt bondage, the removal of organs, the conduct of experiments on persons without their consent, adoption for pecuniary gain, forced pregnancy, involvement in criminal activities, use in armed conflicts. Criminal liability may be incurred regardless of whether the actions were conducted with the use of fraud or blackmail or by taking advantage of the vulnerable situation of the persons concerned, with the threat or use of force or by abuse of official position, or were performed by persons on whom the victim was materially or otherwise dependent.

16. Article 303 of the Law on Prostitution or Coercion or Involvement in Prostitution prohibits the regular exercise of prostitution, the granting of sexual services, coercion and pimping for involvement in prostitution but is rarely applied in practice. For minors, the age of sexual consent is not officially defined, although article 155 of the Ukrainian Criminal Code makes it an offence to have sexual relations with a person who has not attained sexual maturity. Persons under 14 are to be considered sexually immature, however, for minors aged between 14 and 17, the question of sexual maturity will have to be decided on the basis of expert appraisal.

17. Article 301 of the Criminal Code refers to the “Importation, Creation, Sale and Distribution of Pornographic Items”. It covers the importation into Ukraine of productions, pictures or any other pornographic item for sale or distribution, as well as the production of such materials and their distribution. It also covers the use of underage persons to make such materials (picture-making or movie and video products, and software). The penalties for committing related offences are terms of imprisonment from three to seven years.

18. Before 1996, the adoption of children by foreign citizens was not legally allowed in Ukraine. Article 169 of the Criminal Code was elaborated to cover illegal actions regarding minors. This article envisages responsibility for illegal mediation or any other illicit actions with regard to the adoption of a child, wardship, or education in families.

19. Recent legislative measures include the Ukrainian Protection of Children Act which entered into force on 6 June 2001, proclaiming the protection of children in Ukraine as a strategic priority of nationwide importance, and determining the underlying principles for the State’s policy in this area. The Ukrainian Social Work with Children and Young People Act entered into force on 1 August 2001, it sets out the organizational and legal framework for social work with children and young people. On 2 February 2005, the Organizational and Legal Conditions for the Social Protection of Orphans and Children Deprived of Parental Care (Implementation) Act entered into force, setting out the legal, organizational and social framework for State support for orphans and abandoned children.

20. Judicial proceedings involving minors as well as offences committed by minors are dealt with by the general Courts system, as no separate juvenile justice system has been established. The Special Rapporteur has been informed that penal responsibility for young offenders has been set at 14 years, and from this age a minor can legally be placed in a detention centre (although separated from adults until the age of majority at 18). In order to take account of the child’s best interests, steps are being taken to establish the institution of court-appointed welfare officers and to set up juvenile courts for the consideration of cases relating to children’s rights. The Supreme Court has recommended that the heads of local and appeal courts enlist the participation in such cases of judges who have at least three years experience of such work and specialize in the consideration of criminal cases of this type.

IV. INSTITUTIONAL FRAMEWORK, POLICIES AND LAW ENFORCEMENT

21. The main responsibility for protection of children's rights lies with the Ukrainian Ministry for Family, Youth and Sport which has extensive responsibility for shaping State policy with regard to the social and legal protection of children and crime prevention work. The Ministry has the responsibility to ensure the application of the laws relating to protection of the rights of children, to coordinate the work of the juvenile affairs services and to develop proposals designed to improve the domestic legislation upholding the rights and interests of children and young people. The social services centres under the auspices of this Ministry are in the front line of the system of protection of children's rights, receiving complaints and reports about violation of children's rights and providing social, psychological and medical assistance to child victims.

22. The Ukrainian Ministry for Family, Youth and Sport also has under its responsibility such bodies as the juvenile affairs services, various departments and offices dealing with families and young people and the social service centres for families, children and young people. Responsibility for coordinating and monitoring efforts to ensure the social protection of children from cruel treatment and exploitation rests with the juvenile affairs services run by the local authorities. The juvenile affairs services ensure, amongst others, the following functions: keeping a register of children suffering from cruel treatment and of their families; coordinating the work of the education, health and internal affairs authorities aimed at preventing and warding off cases of cruel treatment of children; assistance to children suffering from cruel treatment and, where there is a threat of such cruel treatment, taking the necessary preventive measures; referral of children for monitoring by the health authorities.

23. The Ministry for Family, Youth and Sport also run shelters and reception centres for street and abandoned children. These short- and medium-term facilities provide boarding facilities for children until a more permanent solution to their needs is found. During their stay at these centres, children of school age will attend local neighbourhood schools.

24. The Ministry of Education and its services and institutions ensure that steps are being taken to uncover and prevent cases of children being recruited from educational establishments for prostitution and pornography, prevent trafficking in children and, if necessary, prosecute school employees, pupils and other persons who engage in cruelty against children. Besides, the educational authorities are responsible for conducting prevention programmes at schools and together with parents prevent trafficking of children, child prostitution and pornography.

25. The Ministry of Education is also in charge of operating the orphanages for children without parents or who have been abandoned. These long-term facilities provide all boarding and educational facilities for children from the age of 3 until 18. In practice, a child can spend all his childhood and adolescence at the orphanage, sleeping, eating, attending school, playing sports and using other recreational facilities, and, if sick, being treated at the medical facility. Only when adopted (within the country or abroad) or when reaching the age of 18 does life outside the orphanage begin, with all the difficult adaptations resulting from leaving a sheltered environment and joining the outside world, with no more help or assistance.

26. The Ministry of Health has under its auspices all public hospitals and clinics and it also runs several sanatoriums for sick and disabled children. The health authorities also provide medical assistance to victims of trafficking, prostitution and pornography and to children who have been victims of violence. Under Ukrainian law, all medical services in public health establishments are provided free of charge.

27. There are also some specialized institutions run by the services of the Ministry of Labour and Social Policy where children with disabilities (not necessarily orphans) are being cared for and given vocational training and apprentices' facilities. The Ministry of Labour and Social Policy is also responsible for ensuring compliance with employment laws and regulations. The Ministry and its labour inspectors are in charge of ensuring that children are not illegally employed or exploited. The minimum age of employment with no limitations is set at 16 years, before that a child may, starting at 14 years, work part-time if it is related to his studies and starting at 15 years with authorization of the parents or guardians.

28. Finally, the Ministry of Internal Affairs, whose terms of reference encompass the law enforcement agencies, such as the National Police, is responsible for receiving information about cases of cruelty against children, including cases of trafficking in children and their involvement in prostitution and pornography, taking steps to bring the perpetrators to justice, and if necessary, arranging the urgent removal of children from families, together with the juvenile affairs services, who decide on arrangements for future care of the child. In dealing with cases of violations of children's rights, employees of the criminal police responsible for minors are obliged to keep the following persons informed: those filing the original complaint, the juvenile affairs services, the child's parents or persons acting on their behalf, and if necessary the General Prosecutor's Office. Finally, the Ministry of Justice, in conformity with relevant legislation, is competent to examine questions arising from international law norms and international agreements, including those in regard to the protection of the rights of the child and of human rights and freedoms. It elaborates, upon request of the Government or on its own initiative, draft laws or other legal documents in the field of human rights.

29. The different law enforcement organs in Ukraine are the General Prosecutor's Office, the Ministry of Internal Affairs and the different police and public security agencies. The Ukrainian Prosecutor's Office is a unified system which is responsible for prosecuting on behalf of the State in the courts, representing the interests of the citizen or the State in the courts in the cases specified by law, supervising compliance with the law by the organs carrying out operational investigative activities, inquiries and pretrial investigation, supervising compliance with the law in the implementation of court decisions in criminal cases and in the application of other measures of a coercive nature connected with restrictions on citizens' personal freedom.

V. POSITIVE ASPECTS: SOME POLICIES AND PROGRAMMES

30. Several programmes for victims of trafficking, including prostitution are active in addressing trafficking from different angles - prevention, assistance and reintegration. The Special Rapporteur also witnessed several programmes focusing on children, especially on abandoned or street children and others. The Special Rapporteur was also made aware of several policies by different governmental actors to combat trafficking in persons, child prostitution and child pornography.

31. In the area of law enforcement, the Ministry of Internal Affairs, through the Anti-Trafficking Section and the National Bureau of Interpol, is working hard to counter traffickers of human beings. A special unit to counter human trafficking was set up in 2005, which resulted in the number of cases of trafficking in persons being investigated rising from 2 in 1998 to 415 in 2005. Since the beginning of 2006, 274 cases have been investigated.³ Although most victims of trafficking in persons were adults, in 2005 35 minors were found abroad by law enforcement agencies and returned to Ukraine. As a general pattern, the main destinations for trafficked persons are Turkey, the United Arab Emirates (these two countries mostly for sex trafficking) and the Russian Federation (mostly for labour exploitation). These investigations resulted in the disbandment of 39 organized criminal groups in 2005, 32 for pimping activities and 7 for pornography.

32. Concerning child pornography, the National Bureau of Interpol is working together with the Federal Bureau of Investigation (FBI) in the United States of America in a special group monitoring the Internet. Ukraine also ratified the Convention on Cybercrime. The different agencies of the Ministry of Internal Affairs are also increasing their cooperation with international agencies fighting criminality, such as Europol and Interpol. The Special Rapporteur has had an excellent impression from the work of these anti-trafficking and Interpol brigades, which have demonstrated very serious competences and effective results.⁴ It is encouraging to see a young generation of qualified and enthusiastic professionals working effectively to combat trafficking in persons and crimes against children and to ensure that those responsible for this contemporary form of slavery are brought to justice.

33. The Special Rapporteur was also deeply impressed by the work undertaken by the International Organization for Migration (IOM). The programme developed by IOM to counter trafficking has been in place since 1998 and incorporates a systematic approach focusing on the three phases of this phenomenon: prevention by means of developing public awareness campaigns and disseminating the information throughout the country; prosecution and criminalization by means of encouraging law enforcement agencies and the judiciary to act more effectively to combat these crimes and the traffickers; and protection and reintegration by means of providing assistance and support to victims of trafficking returning to Ukraine, both directly and with the help of NGOs.

34. In this context, the Special Rapporteur visited the Rehabilitation Centre for victims of trafficking in Kiev, which consists of medical and psychosocial facilities where victims of trafficking, upon their return to Ukraine after they escape sexual or labour exploitation abroad, arrive and receive medical treatment and counselling. This particular rehabilitation centre has been in place since 2002 and has since then assisted over 900 victims of

³ Ministry of Internal Affairs, Department on Combating Trafficking in Persons, Anti-Trafficking Section, "Combating human trafficking in Ukraine: achievements and perspectives".

⁴ Activity of NCB Interpol aimed at combating crimes against children and trafficking in human beings, "Prevention crimes against children".

trafficking.⁵ Most of the victims of trafficking have been referred to the IOM Rehabilitation Centre in the following ways: when they were trafficked in a foreign country, the victims were identified as Ukrainians by the consulate of Ukraine through the local IOM office and returned with assistance to their country, where they were taken care of immediately after their arrival at this rehabilitation centre. There they received medical and psychological assistance which can last from a few weeks to several months depending on their condition and needs. After this initial stage, IOM and its partner NGOs establish a reintegration plan, where a local NGO is assigned to monitor the education and career path of the victim of trafficking, offering educational and vocational training, legal and social support as well as financial support, if necessary.

35. Since 2000, over 3,000 victims of trafficking have received reintegration assistance from IOM and its partner NGOs, including the 900 victims who have been cared for at the rehabilitation centre in Kiev. Out of these victims, 120 were minors at the time they were repatriated to Ukraine. IOM also operates six other different shelters throughout Ukraine in various regions of the country. Out of the total number of victims who have received these forms of assistance, a very high number (81 per cent) had been offered a stable employment position after one year of assistance in the programme.⁶ The Special Rapporteur was highly impressed by the professionalism and dedication of the medical and psychological team and also had the opportunity to speak privately with a former victim of trafficking, a minor at the time when she was trafficked out of the country, and he was comforted by her strength and courage and by the fact that she had, during her stay at the rehabilitation centre, developed a career path in order to be able to acquire the skills needed for the profession she wanted.

36. The Special Rapporteur also paid a visit to the international women's rights centre "La Strada-Ukraine" in Kiev. The main activities of La Strada include providing a broad range of assistance for trafficked persons; maintaining a "Hot line" for emergency telephone assistance; analysing the problem of violence against women; providing expertise on legislation in an advisory capacity concerning women's status in Ukraine; conducting educational programmes among youth on the problem of women's rights; preventing trafficking in women and other kinds of violence and exploitation and cooperation with mass media; distributing the information about these issues.⁷ La Strada also cooperated with Ukraine's Parliament in discussions and adoption of the law against trafficking in women (article 124 of Ukraine's Criminal Code). The Ministries of Family and Youth, Social Services, and Education have been cooperating with La Strada in the fight against trafficking. Furthermore, the Ministry of Foreign Affairs, with the help of information provided by La Strada, has been able to assist victims of trafficking abroad in returning to Ukraine.

⁵ International Organization for Migration, "Combating trafficking in human beings in Ukraine", statistics updated as of 30 June 2006.

⁶ See footnote 4 above.

⁷ International Women's Rights Centre, La Strada-Ukraine, Ministry of Education and Science of Ukraine and Kirovograd Law Institute, "Prevention of Trafficking in Human Beings and Exploitation of Children", Kiev 2005.

37. The Special Rapporteur has had the opportunity to visit a shelter for minors run by the Service for Minors of the Kiev City Administration on the outskirts of the city. This shelter has different facilities for boys and girls. Accommodation and meals are provided in the shelter, as well as a range of cultural and sports activities. The children also attend local schools. At the time of visit, there were about 12 boys and 20 girls staying at this facility, most of them coming from outside of Kiev, having been abandoned by their parents or having run away from violent or poor families. The Special Rapporteur was impressed by the professionalism and dedication of the staff, especially by the director of the Service for Minors of the municipality of Kiev and the director of this shelter. The affection that the children showed for them and their enthusiasm with which they showed the Special Rapporteur around the facility and talked openly about the problems and challenges they faced has to be praised. This facility, which was of a human scale, offered the children a roof, food and the opportunity to attend school after they suffered such a horrendous experience of having been abandoned by their parents or having had to flee a violent or miserable household.

38. The Special Rapporteur also visited a private daytime centre, “Beth Miriam”, for children from fragile families, run by different religious organizations such as Christian Solidarity International and the association “Triumph of Heart”, with the help of donations from Western European countries. Although at this time there were no clear laws regulating private shelters for children, which in fact made it impossible for children to be accommodated at the centre, the different partners running this brand new centre are offering educational and social activities to the children enrolled in their programme, such as help with homework, computer facilities, a library and some sport activities. The parents are informed of all these activities and have agreed to their children’s involvement at the centre which also serves meals to the children who continue to live with their families and attend public schools in their neighbourhoods. The educators would like to be able to have orphans or street children stay at the centre and provide them with all their facilities, something the current law prohibits at the moment, since the State assumes all responsibility and competence for orphans and street children.

39. Finally, the Special Rapporteur noticed that the amount of foreign aid provided a favourable ground for NGOs to develop, especially in the area of social services, however far less so in advocacy, and that it was mostly on limited-time projects. When this foreign aid declines, the survival of many NGOs will be put at risk. Their access to public funds is still quite limited, and so is the collaboration between public authorities and civil society on social matters. The cultural heritage of a State that used to be the only actor in all spheres is still present and affects a fully fruitful relationship between public authorities and civil society. This is also valid for the business sector, whose involvement in social initiatives is still very limited. Trade unions may be another actor with potential to be a vocal advocate for children’s rights.

VI. MAJOR CONCERNS

40. The collapse of the Soviet system with its model of full State control and funding of all activities, including social and family matters, has led to a radical reconstruction of the social base of Ukrainian society as it faced the challenge of transition from a planned economy to a market one. Crime and violence, and aggression towards children are nowadays realities that plague countries such as Ukraine. The nature of this social transformation - the scale, trends, depth and means by which change has occurred, has greatly affected all levels of Ukrainian society.

A. Children deprived of parental care

41. Today there are about 100,000 children in Ukraine in orphanages or deprived of parental care.⁸ The vast majority of them are being brought up in State institutions and other shelters and houses of children. A few of them (less than 2,000) are brought up in foster families and adopted. State institutions and children's homes, together with socially disadvantaged families, are the main cause of homelessness of children. In 2005, the number of such children deprived of parental care increased up to 50,000. The numerous orphanages and boarding facilities for orphans or abandoned children see to it that the State ensures protection for the most vulnerable persons in society.

42. The Special Rapporteur has serious doubts that institutions where 100 to 200 children grow and live together is the best form, since nobody has so many brothers and sisters. This creates a tremendous difficulty for each child when he attends the local school, plays with other children of the neighbourhood and especially when he reaches adult age and leaves the institution for the outside world. The Special Rapporteur remains of the opinion that orphanages are anti-natural and artificial institutions and as such should be as small as possible so as to be able to create an environment where each child could grow and develop the tools that will allow him or her to become a fully integrated adult in tomorrow's society. Even if children are living and receiving education in the State institutions, nobody can say that their future is safe and well provided for. The education level at these institutions has proven not to be high; as a rule, the children afterwards do not enter higher education institutions. Even if there were quotas for those children at the higher education institutions, most of them would have no capacity for continuing education.

43. The Special Rapporteur has been made aware that the procedures regarding adoptions, especially international adoption, are lengthy and complicated. Although the authorities have privileged adoption within the country - the number of Ukrainian families adopting children from orphanages has doubled - the demand for international adoption remains high with 2,500 children having left the country in 2005.⁹ The Special Rapporteur is of the opinion that, although adoption laws must introduce safeguards in the criteria for adoption, particularly outside the country, it is always in the best interests of a child to be brought up in a family which has clearly expressed the will to raise children rather than at an orphanage where they would be deprived of parental care. The Special Rapporteur welcomes new legislation on adoption that is being prepared as a firm reaction to irregularities and distortions of the past and as a conducive measure to develop alternatives inside the country in the best interests of children.

44. The Special Rapporteur would like to underscore that the initiatives and experience of private actors and NGOs in the protection of children should be encouraged and the private sector should become involved and play a greater role so as to offer these children career opportunities and training programmes, and the governmental policy aimed at deinstitutionalization of State institutions should also be continued.

⁸ Estimation provided by UNICEF in Ukraine.

⁹ Statistics provided by the Ministry of Family, Youth and Sports.

B. Street children

45. The phenomenon of children living in the streets started with the collapse of the Soviet State system in the early 1990s when all facilities such as orphanages, boarding schools and hospitals were left with very little or no financial resources. At the same time, many families lost jobs, experienced a decline in income, and the pauperization of whole sectors of society, as well as of the whole regions, was under way. This brutal phenomenon led to alcoholism, domestic violence and abuses against children in many families; as a result many children and minors left their homes and broken families in search of a better future. Children also end up in the streets after fleeing from State institutions and families, and often they try to avoid violence and abuse. They also easily fall victims to traffickers and pimps involved in prostitution and pornography. The number of street children reached its peak in the mid-1990s, and since the country's economy started to grow again, the number has remained the same over the years.

46. The Special Rapporteur has had the opportunity to meet, through various NGOs, with minors and young adults living in the street. The Special Rapporteur also visited shelters where children found abandoned on the street are taken care of by the social services. The Special Rapporteur has been made aware by several researchers and academics that the number of street children or children in a vulnerable situation which can turn them into street children, although not verified, reaches approximately 12,000 in Kiev alone. Street children face enormous difficulties such as a complete lack of resources, food and shelter, vulnerability to abuses by other street children and often by police officials. A large number of street children become addicted to alcohol and drugs, and in order to buy these products or just to be able to survive, resort to prostitution and become victims of forced labour. Although there is no official statistics on street children, researchers estimate that at least one third of these persons are being sexually exploited. Concern has also been raised about the total lack of health protection, especially HIV/AIDS treatment amongst this very vulnerable population group.

47. The Special Rapporteur has expressed his great concern about the absence of effective governmental policies with respect to this particularly vulnerable sector of society. The allocation of resources to tackle this problem should be a priority. The Special Rapporteur finds also extremely worrying that, according to studies, only 10 per cent of the parents of children who run away from home try to find their children, in other words, 90 per cent of parents of such children take no action to recover their "missing" children.¹⁰

C. Trafficking

48. The trafficking in children through and from Ukraine is a very big problem and a severe reality which needs profound solutions and innovative ways of combating and preventing it. According to the data provided by IOM, 10 per cent of all victims of trafficking who are known

¹⁰ Julia Galustyan and Valentina Vovitskaya, ECPAT International and Ukrainian Institute of Social Research, "The situation of children in Ukraine and their vulnerability to commercial sexual exploitation", 2003.

to return to Ukraine, either voluntarily or not, are aged between 13 and 18. Most of them are girls trafficked into sexual exploitation. Boys are also part of child trafficking mostly as cheap labour (for unskilled jobs or to peddle drugs). Children are generally lured into trafficking, both domestic and cross-border. For those trafficked internally, the use of force is widespread. The recruitment of children into cross-border trafficking generally involves acquaintances and friends of the children; children trafficked internally are often victims of a “deal” or mediation by a family member, often a parent.

49. In general, the trafficked girls are sent to the Russian Federation, Turkey, Poland, the Czech Republic, Italy and the United Arab Emirates. The boys are sent to the Russian Federation, Poland, Moldova, Turkey and Romania. Half of the children trafficked across borders go to neighbouring countries (the Russian Federation, Moldova); the rest go to urban centres in countries outside the Commonwealth of Independent States (CIS). The exact destination of the child depends on where the child came from and may vary from region to region. The children trafficked across borders are exploited in street-vending, domestic labour, agriculture, dancing, as waiters/waitresses, or they provide sexual services. Most often, the children are expected to dance, beg or provide sexual services regardless of what they had anticipated doing.

50. Furthermore, many of the children trafficked across borders are often trafficked within the country too. One characteristic of child trafficking in Ukraine is that in most cases children are trafficked within the country. Children trafficked internally are also expected to provide sexual services or to beg, despite promises of work as cleaners, waiters or hawkers.

51. The recruitment for trafficking often takes place when traffickers, to force their victims to work, trap children in debt bondage: to pay off the costs of their trip and related “services” such as food and accommodation, the children must stay and work. Repayment of debt is also given as the reason why most of the children trafficked received no payment for the work they do, or only part of it. And this is despite the fact that children are obliged to work long hours (often eight hours a day) and frequently at night. They have no way of negotiating conditions and are involved in forced labour. In the majority of cases, trafficked children are deprived of freedom of movement, the possibility of communicating with others and contacting people close to them. They are under the constant surveillance of their employers and are seldom left alone, living and working with other children. Opportunities to escape are rare.

52. According to statistics provided by IOM, as of 30 June 2006 120 unaccompanied children were repatriated from nine countries, mostly from the Russian Federation, Turkey and Poland. The Special Rapporteur has been made aware of the number of victims being trafficked both outside the country and within Ukraine. Among these persons, about 10 per cent were minors at the time they were lured into being trafficked, whether for sexual or forced labour purposes. The Special Rapporteur, although acknowledging the very useful efforts undertaken by IOM and its partner NGOs in providing assistance to victims of trafficking, remains nevertheless concerned that the figure of 2,345 persons assisted since 2000 is just a tip of the iceberg and that many victims remain unaccounted for and unassisted abroad or when they return to Ukraine.

53. The Special Rapporteur is also concerned about the high number of persons leaving the country for prospects of a better future abroad, as the statistics on the decline of population have shown. The root causes of this emigration process are the collapse of the Soviet State system as well as the temptation of the West with its consumer societies, higher wages and better living conditions. All this facilitates the recruitment of potential victims of trafficking, and problems faced by numerous children in violent and alcoholic families increase their vulnerability in terms of being lured by better life conditions elsewhere.

D. Child prostitution and pornography

54. The prostitution of children is one form of abuse of children in sexual activities for remuneration or otherwise. Generally, it means that a party benefits from a commercial transaction in which a child is made available for sexual services involving either a pimp or an abuser who negotiates directly with the minor. The Special Rapporteur has been made aware that child prostitution in Ukraine has increased in recent years. According to a survey by the Ukrainian Institute of Social Studies, in 2001-2002 among females who engaged in commercial sex 11 per cent were minors of 12 to 15 years, while 20 per cent were minors of 16 to 17 years.¹¹ The focus group members also spoke of 10-year-old girls being forced into prostitution. People engaged in the sex industry tend to keep strict secrecy that considerably complicates communication with them in the course of conducting a sociological survey. This group, including minors, paid fines for engaging in prostitution. According to police records, 5,300 people are involved in the prostitution business in Ukraine.¹² Therefore, real figures regarding the number of minors engaged in the commercial sex sector are higher than the survey would have shown.

55. The age at which people first enter prostitution is not officially known, although statistics in surveys indicates that the age of “sexual debut” is declining. This may be connected with the rapid expansion of communication technologies and the fact that young people receive mixed messages as the infiltration of Western consumer culture becomes stronger.

56. Concerning child pornography, the Special Rapporteur is also preoccupied by many examples shown to him that suggest that there is much evidence of the production, distribution and use of pornography in Ukraine, and that this criminal activity appears to be well organized. However, the extent to which children are used in the production of such materials is less clear, although the allegations received indicate a worrying trend. Concerns were expressed that there was a major underground industry producing pornography with participation of adults, and in this light, it is evident that vulnerable children are also at risk. Information has also been received regarding cases where parents make their children available to pornographers, while in other situations street children are lured into pornography by promises of reward. As for the distribution of child pornography via Internet and Ukraine-based child pornography websites, there is little information on that matter.

¹¹ See footnote 10 above.

¹² See footnote 3 above.

57. The Special Rapporteur is particularly concerned by these terrible phenomena affecting the most vulnerable persons in the society and by how exploiters, whether pimps, traffickers, producers of pornographic material and in some cases even parents, take advantage of these children for the most abhorrent activities. The Special Rapporteur has learnt, through the main media and tourist information, about numerous advertisements of “marriage”, “dating” and all sorts of services catered to the visitors, which do not appear to be clearly regulated or controlled. With the lifting of visas for most Western-country visitors, the country is increasingly becoming a main destination for sex tourism, and the Special Rapporteur fears that minors are being exploited in these developing activities.

E. Young offenders

58. During his visit, the Special Rapporteur found that in Ukraine no separate juvenile justice systems existed for young offenders or minors in conflict with the law. Offences committed by minors are treated according to the same procedures as those committed by adults, both at the phase of investigation and trial. From 14 years onwards, a minor can be detained, whether at a police station for 48 hours following arrest, at a remand centre while awaiting trial, or at prison after being convicted. Although there are separate prison facilities for minors who have been convicted to sentences of imprisonment for serious crimes, there are no such separate facilities at the initial arrest phase (police stations, investigation centres) and while awaiting trial (remand centres). Although authorities have assured that minors are always separated from adults while being detained at these facilities, the Special Rapporteur is concerned about the risks of abuses for these minors in conflict with the law, especially since they may face detention from such an early age as 14.

59. Moreover, the Special Rapporteur remains concerned that in Ukraine, although it has over the last 15 years changed a significant number of its laws and adapted them to the international standards, a separate juvenile justice system has not yet been put into place. Although the Special Rapporteur has been assured that in judicial proceedings involving young offenders the Government intends to appoint welfare officers in courts to protect the minors’ interests and that the Supreme Court has issued a directive recommending that in cases involving minor offenders judges with at least three years of work in this field should be appointed to hear such cases, the establishment of a separate juvenile justice system in conformity with international standards should be a priority.

F. Values and mentalities

60. As discussed earlier, Ukraine is a country in transition, not only politically and economically, but perhaps more importantly in terms of cultural values and mentalities. Although dramatic changes have taken place since the collapse of the State Soviet system, mentalities and values need much more than merely a decade or so to evolve. Moreover, for more than 70 years, and even longer, the country has been kept under tight rule and dissent was severely reprimanded. As the Special Rapporteur learnt from a local source, “for decades people have been told that things were either forbidden or compulsory. Nowadays, it is hard for them to take personal initiatives and get rid of this system of thought”.

61. The attitude towards protection of children still reflects this mindset that the State knows what is best for the interests of children and assumes responsibility and control for their education, well-being and leisure activities, especially for children coming from problematic families or for those deprived of parental care. Unfortunately, as the Special Rapporteur could notice, the State has given up for some time this role and is now unable to assume all these responsibilities alone. The Special Rapporteur believes that other actors such as NGOs and the private sector have a role to play in the protection of children and in assuming responsibility in these new areas where they have been absent, they will contribute over the years to a gradual change in mentalities and values, as far as the role of the State and protection of children are concerned.

G. Corruption

62. The Special Rapporteur heard about allegations of corruption in the State apparatus throughout his visit, which aroused his concern. Often it was not NGOs, academics or even victims of trafficking or prostitution who evaluated this phenomenon in the most severe terms, but professionals working in the system themselves, such as police officials, lawyers and even some judges who had the most negative perception of some of their colleagues and of how this widespread phenomenon affects public administration.

63. The Special Rapporteur has been made aware of parents who have to pay their children's teacher to ensure a positive result in examinations. Similarly, in the health sector, giving some money to the doctor and nurses to "advance" in the waiting list for an appointment or to ensure that the doctor visits the patient at home in due course is a common practice, which is not even perceived as corruption. The Special Rapporteur was informed by the Bar Association of Ukraine that half of the judges are involved in corruption practices. Moreover, there exists a whole list of fixed prices to pay to court officials in order to speed up proceedings and even get issued a ruling in favour of the "contributing" party. Several police officials involved in protection of children and young offenders have also claimed that many of their colleagues cannot survive on their regular low salary and thus have to complement it with "bribes" in order to ensure a decent standard of living.

64. The Special Rapporteur is particularly concerned about these widespread allegations that corruption undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations, especially in a period of political instability, such as Ukraine is experiencing now.

H. Multiplicity of actors involved in the protection of children

65. The Special Rapporteur during his visit met with many different actors at the governmental level involved in the issues of protection of children. Five different ministries are involved in just providing care and assistance to children: the Ministry of Family and Youth, the Ministry of Education, the Ministry of Health, the Ministry of Labour and Social Policy as well as the Ministry of Internal Affairs, each being assigned a share of the responsibility. Furthermore, several committees of the Verkhovna Rada (Parliament) are dealing with issues

and policies regarding protection of children. This multiplicity of public actors involved in providing assistance and care to the most vulnerable and tomorrow's citizens leads to situations where these actors cease to assume their responsibilities because of the limitations of their mandates and for fear of intervening in the mandates and responsibilities of others. Eventually, as one observer of this situation summarized it, "when everyone is responsible, no one is responsible any more".

66. The Special Rapporteur would therefore recommend avoiding spreading responsibility for children's issues over several actors and to limit this mandate to as few actors as possible, but at the same time to invest them with due power and render them accountable for the protection of children's interests and rights.

VII. CONCLUSIONS

67. Ukraine is now at a crossroads and at this point it will have to build a new model of protection of children's rights; otherwise the consequences will seriously affect the future generations. Although the country has undertaken serious efforts in order to comply with the standards set forth in the international and European conventions relating to the protection of children, the slow progress made in reforming the social protection system leaves many children and adolescents vulnerable to trafficking and prostitution. The lack of a coherent adoption policy, whether at the domestic or international level, remains a challenge for the country. The good news is that there are many persons and organizations with motivation and good intentions that need to be encouraged and given the tools and possibilities to implement their ideas and projects.

68. The Special Rapporteur is concerned about the high number of persons leaving the country for prospects of a better future abroad, as the statistics on the decline of population have shown. Internal trafficking is overshadowed by its international aspects, which so far attracted most of the attention of authorities, media, the donors' community and organizations with expertise in this area. Nevertheless, it is clear that internal trafficking opens doors to international trafficking, and no anti-trafficking strategy can be efficient if it does not address the problem internally, with adequate prevention policies and rehabilitation programmes for victims of internal trafficking that at present do not exist. Also, the illegality of prostitution makes prostitutes, especially adolescents, more vulnerable to exploitation and abuses.

69. Social exclusion, discrimination and stigmatization combined together act as contributing factors and root causes of vulnerability to trafficking and sexual exploitation. The following groups are exposed to higher risks: children from dysfunctional and poor families with a low level of education, street children, victims of sexual abuse and domestic violence, children in State institutions for minors or who recently left such institutions. The list is not exhaustive. Rural and economically disadvantaged areas are particularly affected by poverty and social exclusion, with lack of or limited access to primary social services, such as health and education. Preventive programmes targeting children and youth from poor and vulnerable neighbourhoods are very limited, and private initiatives are not encouraged by the State who still sees its role as the protector of children and provider of services.

70. Furthermore, corruption is widespread in the public administration, particularly in the judiciary and the law enforcement sectors, which greatly undermines the enforcement of the law, the delivery of social services and the overall capacity of the State to prevent and redress human rights violations. The struggle against corruption should be seen as a national challenge since it affects all levels of public administration and generates multiple complications in the daily life of Ukrainians.

71. Even though everyone agrees that the model of full State control and funding of social and family matters has collapsed resulting in the problems we are now experiencing, such as the lack of initiative and responsibility before its citizens and members of civil society. However, the State cannot, on the other hand, remain unconcerned by the difficulties its citizens are facing. The Special Rapporteur remains concerned about the feeling many people continue to nourish that the State has to undertake, control and implement all social policies. Besides, the multiplicity of public actors involved in providing assistance and care to children leads to situations where competence and responsibilities jeopardize their ultimate goal because of the limitations of their mandates and for fear of intervening in the mandates and responsibilities of others.

72. Finally, the Special Rapporteur believes that the role of the State is to open possibilities and initiatives and generate policies in order to allow concerned actors such as NGOs, international organizations and civil society to contribute and become involved in the protection of children and minors. This plurality of actors will not only ensure a better future for the following generations but also strengthen democracy as a whole. In this sense, it is of utmost importance that NGOs and private initiatives for protection of children's rights be supported and funded by the State so as not to get bogged in the State bureaucracy and never reach those who are in need.

VIII. RECOMMENDATIONS

73. The lack of a separate juvenile justice system is a major gap in the protection of children's rights. Therefore, the Special Rapporteur recommends the establishment of such a separate justice system for minors in conformity with international standards. Such a system should encompass different courts dealing with young offenders. Moreover, the law enforcement agencies, such as the Prosecutor's Office, should have separate units for judicial proceedings involving minors, not only when they are in conflict with the law, but also when they testify as witnesses in cases involving child trafficking, prostitution or pornography. The Special Rapporteur also recommends setting up separate detention facilities (police stations, pretrial investigation centres and remand facilities). The Special Rapporteur nevertheless believes that only serious crimes committed by minors should result in detention.

74. In order to better protect the interests of all children and help formulate a clear policy on children's rights and issues, the Special Rapporteur, in line with the concluding observations of the Committee on the Rights of the Child regarding Ukraine,¹³ also

¹³ United Nations, Committee on the Rights of the Child. Concluding observations on State Party Report by Ukraine, CRC/C/15/Add.191, 2002.

recommends to create a high-level independent institution, such as a National Commission on Children, Youth and Family dealing specifically with enforcing children's rights and public policies with regard to children. Such an institution would be headed by a respected and non-partisan personality and could benefit from the assistance of the Ministry of Youth, Family and Sports. NGOs and civil society should be an integral part of this mechanism. In formulating such policy, this institution should take into account positive experiences of other countries, as well as programmes developed by NGOs and the private sector.

75. With regard to legislation, the Special Rapporteur recommends that Ukraine:

(a) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture, the United Nations Convention against International Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

(b) Officially decriminalize prostitution and define the age of sexual consent;

(c) Clearly define the crimes of child pornography;

(d) Allow children to file, without parental consent, complaints of abuse;

(e) Improve procedures related to legal guardianship when families are involved in trafficking in their children;

(f) Adopt a law on clear and accessible procedures enabling victims of trafficking to get compensation;

(g) Continue to conclude bilateral agreements on anti-trafficking measures with destination countries, especially with the Russian Federation which has a long common border with Ukraine and with which there are no bilateral agreements;

(h) Examine the possibility of concluding agreements with other European countries in order to receive training for social educators.

76. To facilitate the law enforcement, the Special Rapporteur recommends:

(a) To give more powers and resources to police units such as the anti-trafficking unit, the child protection unit and the Interpol unit, and to consider how to deal with victims of trafficking, domestic violence and sexual abuse;

(b) To establish a system of witness protection in cases of trafficking. Witnesses must be given not only protection but also incentives to testify;

(c) To coordinate the actions of the Frontier Police with those of the other institutions working under the Ministry of Internal Affairs;

(d) To address the problem of corruption, especially in the law enforcement and judiciary sectors. Codes of conduct, incentives for reporting unethical behaviour and other initiatives can be introduced in the public administration;

(e) To regulate strictly the numerous dating and marriage agencies which often constitute a disguised form of prostitution and trafficking which occasionally may involve minors;

(f) To set up a national toll-free telephone line accessible everywhere to report complaints and cases of trafficking in children or disappearances, and to offer children assistance in all confidentiality.

77. Concerning boarding schools, the Special Rapporteur insists that children in shelters and orphanages and those who find themselves in vulnerable and disadvantaged situations should not be forgotten. He recommends:

(a) To transform large-scale institutions into smaller boarding schools in order to create an environment where each child could grow and develop the skills that would allow him or her to become a fully integrated adult in tomorrow's society;

(b) To place children deprived of parental care from birth till the age of three in foster families as they should not stay at boarding facilities;

(c) To facilitate procedures of adoption, giving priority to foster families with all the help and resources to assist them adequately, and then to adoption inside the country and international adoption;

(d) To introduce the system of "specialized educator" to work at specialized institutions for minors.

78. Alternatives to placement in orphanages must be sought whenever possible. The establishment of a deinstitutionalization commission would be a welcomed alternative and would be able to look individually at the options for every child deprived of a family environment. Besides, a new policy regarding adoption is needed, with a national agency in charge of setting up a transparent policy and ensuring rigorous selection in the placement of children, always ensuring that the interest of every child remains the main criterion and that this placement is free from corruption or political intervention.

79. To be effective, policies and programmes to fight trafficking and sexual exploitation of children must address the root causes of the phenomenon. Social exclusion and discrimination are major root causes. In order to deal with such vast, comprehensive and ultimately rather vague concepts, the Special Rapporteur suggests targeting groups affected in different ways and to different extent by social exclusion, discrimination and stigmatization. These include street children, victims of sexual abuse and domestic

violence, children at boarding facilities or who recently left them, children from dysfunctional and poor families with a low level of education. The Special Rapporteur recommends strengthening the role of local social services in proactively identifying and referring children at risk; monitoring standards of care; assessing the situation and developing community child and family protection plans; and serving as focal point for coordinated referral and response. The Special Rapporteur also recommends that, in the curriculum of primary and secondary schools, special attention is paid to the issues of trafficking in the global human rights perspective as well as to the struggle against corruption.

80. The collaboration between the State and civil society needs improvement. New mechanisms should be developed to enhance collaboration with NGOs and the private sector. The State should collaborate and delegate to capable and credible NGOs those services that would be delivered more efficiently by more flexible organizations than by the public administration. The Special Rapporteur recommends the creation of mechanisms to allow the State to subsidize NGOs attending vulnerable children and youth through public funds. The Special Rapporteur also invites NGOs not to limit their activities to the delivery of social services but to be more vocal in their advocacy role.

81. The Special Rapporteur encourages the Government to seek the assistance from the United Nations Country Team (UNCT) and other international organizations in implementing the recommendations of this report. In particular, the UNCT can provide assistance in monitoring the implementation of the national strategies on children and in combating child trafficking; in carrying out evaluations of rehabilitation programmes for victims of trafficking and in setting up a system to monitor standards of care provided by social services; as well as in institutional and capacity-building initiatives, including assessing and drawing lessons from experience of coordination and institutional set ups on children operating at the local level; in providing guidelines and tools to set up a separate juvenile justice system and an independent high-level institution for the promotion and protection of children's rights and interests.
