

# Chile - United States Department of State

## CHILE: Tier 1

The Government of Chile fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore Chile remained on Tier 1. These efforts included investigating more cases, prosecuting more traffickers, and developing the new 2019-2022 national action plan. Although the government meets the minimum standards, Chilean courts issued lenient sentences, undercutting nationwide efforts to fight trafficking and leaving traffickers eligible for suspended sentences. As a result, no traffickers convicted during the reporting period served time in prison post-trial. Judges suspended the sentences of 62 percent of traffickers convicted in the past five years. Further, victim services provision was uneven, with male victims and victims outside the capital less able to access care. Placement in National Service for Minors (SENAME) facilities could place children, including minor trafficking victims, at risk of abuse.

## PRIORITIZED RECOMMENDATIONS:

Sentence traffickers to adequate penalties, which should include significant imprisonment, as required by Articles 367 and 411. • Provide suitable, safe shelter for child and adolescent trafficking victims as required by law. • Vigorously investigate, prosecute, and convict all forms of human trafficking, including domestic child sex trafficking, under Article 411 of the penal code. • Ensure convicted traffickers serve complete prison terms, as sentenced. • Actively screen for trafficking victims among vulnerable migrant groups. • Follow through on plans to restructure or replace the SENAME child protection system. • Increase training on application of Article 411 for judges and prosecutors. • Continue efforts to disrupt systematic child abuse, including trafficking, especially in facilities used by trafficking victims. • Expand access to specialized shelters for trafficking victims, including male victims, minor victims, and victims outside the capital. • Increase funding and services for victim protection efforts. • Develop guidelines for officials to screen for trafficking indicators for children involved in illicit activities to ensure no trafficking victims are penalized for unlawful acts their traffickers compelled them to commit. • Increase legal representation to victims seeking restitution.

## PROSECUTION

The government maintained prosecution efforts. Article 411 of the penal code criminalized sex trafficking and labor trafficking, prescribing penalties ranging from five years and one day to 15 years' imprisonment, plus fines. These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. Chilean officials continued to investigate and prosecute many internal child sex

trafficking cases under Article 367 of the penal code, which penalized “promoting or facilitating the prostitution of minors.” Penalties for this crime ranged from three to 20 years’ imprisonment. Under mandatory sentencing laws, judges frequently suspended or commuted sentences of less than five years’ imprisonment, even when adjudicating cases of human trafficking and other serious crimes.

Anti-trafficking police units opened 92 new investigations (62 for sex trafficking and 30 for labor trafficking), compared with 39 cases in 2018 (23 for sex trafficking and 16 for labor trafficking) and 21 cases in 2017 (13 for sex trafficking and eight for labor trafficking). In one investigation, authorities in multiple cities raided several apartments, arrested eight traffickers, and identified 30 potential victims. Authorities prosecuted 37 individuals (19 under Article 367 and 18 under Article 411), compared with 19 individuals in 2018 (13 under Article 367 and six under Article 411) and 17 individuals in 2017 (14 under Article 367 and 3 under Article 411). The government convicted six traffickers (two under Article 367 and four under Article 411), compared with nine convictions (four under Article 367 and five under Article 411) in 2018 and 29 convictions in 2017 (26 under Article 367 and three under Article 411). The four traffickers convicted under Article 411, two labor traffickers and two sex traffickers, were held in pretrial detention. Judges issued sentences of three to four years’ imprisonment under Article 411 and 61 days’ imprisonment under Article 367, which fell below the mandatory minimum penalties prescribed for each article in the penal code. Two traffickers were deported upon conviction. Judges suspended the sentences of the remaining four; consequently, none of the six traffickers served time in prison, which significantly limited the deterrent effect of conviction against traffickers. Only six of 55 traffickers convicted in the past five years have been sentenced to penalties above the mandatory minimum and ineligible for suspension. Judges have suspended the sentences of more than 60 percent of traffickers convicted since 2016, which weakened deterrence. The majority of traffickers ultimately served parole or probation with no imprisonment. The government continued to investigate and prosecute individuals that engaged in commercial sex with minors, resulting in eight convictions in 2019, compared with four in 2018.

The government exchanged 20 cooperation requests with Argentina, Bolivia, China, Colombia, Ecuador, and Paraguay. Authorities implemented electronic transmission of cooperation requests with Australia and Ecuador to shorten response times. The government provided training for the Governments of Guatemala and Panama to strengthen international investigation and prosecution. The national prosecutor’s office (MP) and the interagency task force on trafficking in persons (MITP) provided specialized training to investigators, attorneys, advisors, and staff on a range of trafficking issues. Law enforcement utilized a software system to search for evidence of official complicity in trafficking cases; the government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses.

## **PROTECTION**

The government maintained victim protection. MITP identified 37 female trafficking victims (two for labor trafficking and 35 for sex trafficking), compared with 41 victims in 2018, 21 victims in 2017, and 23 in 2016. The government identified only two child trafficking victims during the reporting period, the same number identified in 2018; the remaining 35 victims were adult women. Authorities identified no male trafficking victims during the reporting period.

Government officials identified growing migrant populations, especially irregular Venezuelan migrants, as increasingly at risk of trafficking due to stricter visa laws enacted in June 2019. In some cases, Chilean officials allowed Venezuelan migrants to gain legal entry on recently expired identity documents, thereby reducing vulnerability to trafficking. Although most trafficking victims entered Chile on tourist visas, authorities identified two victims in 2019 who entered the country unlawfully. The National Service of Women and Gender Equality (SERNAMEG) provided shelter and legal service to 15 female victims amongst the 37 victims of trafficking. The MP provided housing to most victims, while the SERNAMEG shelter directly assisted four female victims identified in 2019 and other victims identified in previous reporting periods. The MITP's protocol on victim assistance entitled victims to safe housing, health services, psychological services, legal assistance, education, employment assistance, and regularization of migratory status. However, provision of victim services remained uneven across the country, and NGOs reported funding was inadequate to provide necessary services, especially shelters for minors and male victims. The government did not fund most NGOs that provided victim assistance; most agencies did not have specific line items in their budgets for victim assistance. Reintegration services, such as education and job placement assistance, were insufficient, and officials reported access to adequate mental health services was expensive and limited.

The national prosecutor's office's Regional Victims and Witness Assistance Unit (URAVIT) budgeted approximately 17.2 million pesos (\$22,890) to provide housing and other basic needs for trafficking victims in 2019. SERNAMEG allocated 127 million Chilean pesos (\$169,000) to fund the NGO-operated shelter for women victims of trafficking, smuggled women, and their children, a decrease compared to the 140 million Chilean pesos (\$186,300) allocated in 2018. The government also had domestic violence shelters that housed trafficking victims, although these shelters did not necessarily provide specialized services for trafficking victims. The URAVIT arranged housing for male victims; however, there were no shelters specifically for male victims. Shelter services for vulnerable migrant victims were administered by local NGOs. The Ministry of Interior created official agreements on legal representation and civil restitution for victims with the Ministry of Justice. SENAME provided basic services to child sex trafficking victims through 18 NGO-operated programs for minor victims of commercial sexual exploitation and its national network of residential centers. SENAME allocated 3.37 billion pesos (\$4.48 million) to these programs for child and adolescent victim services in 2019, compared to three billion Chilean pesos (\$3.99 million) in 2018. SENAME assisted 1,477 children in 2019, compared with 1,459 children in 2018 and 1,350 children in 2017. SENAME did not track how many of the children it assisted were victims of trafficking. SENAME noted 32 children or adolescents were identified by the worst forms of child labor registry as victims of commercial sexual exploitation, though it was not clear how many of these cases qualified as trafficking under international law. During the reporting period, media sources published an unofficially released government report on investigation into mistreatment and abuse at SENAME-affiliated care facilities. The 2017 report revealed severe, consistent deficiencies and systematic abuse in operational protocols at residential centers, which violated children's rights and endangered lives. Analysts identified rights violations in 100 percent of the residential facilities most commonly serving child and adolescent trafficking victims (Specialized Redress Centers under Direct Administration, or CREADs). Further, investigators determined children in 50 percent of these centers had been sexually abused by staff, non-staff, and/or fellow residents. Since the report's completion, the government has taken steps to address the system's failings, including creating an under-secretariat and an ombudsman's office to advocate children's issues and introducing legislation to restructure SENAME. In 2019, the government began closing CREADs, replacing them with smaller "family-style residences;" officials anticipated it

would take two years to decommission all CREAD facilities.

The Ministry of Health hosted a series of internal workshops on victim identification and assistance for public health officials. The MP and the labor directorate updated their guidelines on identifying and assisting potential trafficking victims. The government issued 13 no-fee visas for foreign trafficking victims, compared to 17 in 2018; two additional requests were pending. The visa is valid for up to one year, renewable for up to two years if the victim reported the trafficking crime to the prosecutor's office. An international organization assisted in the repatriation of one foreign trafficking victim. Foreign victims received the same victim services and methods of participation in court—such as teleconference, witness protection, and video testimony—as Chilean victims. Courts in six regions implemented a new policy in October 2019, requiring all child and adolescent victims to testify by video and with an expert intermediary to avoid re-traumatization, but the policy was not scheduled to take effect nationwide until 2021. Judges often held accused traffickers in pretrial detention. Despite these efforts, the government reported challenges in encouraging victims to participate in a full trial. The government did not report granting any victims restitution through civil or criminal cases in 2019. An international organization has expressed concern that striking workers in certain industries could be imprisoned and forced to work.

## PREVENTION

The government maintained prevention efforts. The Ministry of Interior continued to lead the MITP—which included government agencies, international organizations, and local NGOs—and its three sub-commissions. The task force met twice during the reporting period. In 2019, 17 new entities, including three NGOs, joined the MITP. The MITP voted to implement a new national action plan (2019-2022), but the plan had not yet been made public or approved at the ministerial level. There was no federal allocation to fund the implementation of the new plan; instead, each agency contributed to implementation from its own budget. Observers noted personnel and budget constraints affected several agencies with victim protection and trafficking prevention responsibilities. While there was improvement in interagency cross-referencing and sharing of data, more robust coordination was needed.

The government conducted multiple awareness campaigns and distributed materials, including brochures, at various public venues across the country. Several agencies operated hotlines that could take calls on trafficking victims, but the government did not report the number of trafficking-related calls received. The government, in conjunction with an international organization, produced a 2019-2021 working plan to eliminate forced labor, child labor, and human trafficking under the UN Sustainable Development Goals. Labor inspectors conducted more than 100,000 job-site inspections, including 272 child labor inspections. Inspectors identified 170 child labor violations; in response, the labor inspectorate imposed sanctions and levied fines against offenders. The national tourism service, in collaboration with SENAME, continued its certification of tourism organizations and establishments that adhere to norms for the prevention of child sex trafficking; businesses must participate in an anti-trafficking training during the certification process. The government did not make efforts to reduce the demand for commercial sex acts during the reporting period.

## **TRAFFICKING PROFILE**

As reported over the past five years, human traffickers exploit domestic and foreign victims in Chile, and, to a lesser extent, traffickers exploit Chilean victims abroad. Chilean women and children are exploited in sex trafficking within the country, as are women and girls from other Latin American countries, particularly Colombia, and Asia. Stricter visa laws increase migrant populations', especially Venezuelans', vulnerability to trafficking. Children staying in child protection centers are at risk of potential abuse, including trafficking. At least one child staying in a child protection center has died as a result of abuse. Some traffickers may recruit children staying in child protection centers. Traffickers exploit men, women, and children—primarily from other Latin American countries, as well as Asia—in forced labor in Chile in mining; agriculture; construction; street vending; the hospitality, restaurant, and garment sectors; and domestic service. Traffickers subject Chinese and Haitian immigrants to sex trafficking and forced labor and Colombian women to sex trafficking. Chilean authorities identified a significant number of children involved in illicit activities, including drug trafficking and theft; some of these children may have been trafficking victims. Traffickers subject Chilean men to labor trafficking in Peru and Chilean women to sex trafficking in Argentina, as well as other countries. Police often frequented brothels in small towns, dissuading potential trafficking victims from reporting exploitation and fueling perceptions of complicity.