

# Luxembourg - United States Department of State

## LUXEMBOURG: Tier 1

The Government of Luxembourg fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore Luxembourg remained on Tier 1. These efforts included increasing resources for victim assistance, increasing anti-trafficking training to all police recruits, increasing labor inspectors in the field, strengthening international anti-trafficking cooperation, and adopting a new action plan focused on responsible supply chains. Although the government meets minimum standards, the number of investigations and prosecutions declined, and courts continue to fully suspend prison sentences for convicted traffickers, creating potential safety problems for trafficking victims, weakening deterrence, and undercutting nationwide efforts to fight trafficking.

## PRIORITIZED RECOMMENDATIONS:

Sentence traffickers to significant prison terms and ensure convicted traffickers serve those sentences in practice. • Develop safeguards for victims to protect them against traffickers freed on suspended sentences. • Revise the trafficking law to clarify that force, fraud, or coercion are core elements of the crime of trafficking of adults rather than aggravating factors. • Increase trafficking training for judges. • Increase law enforcement efforts against labor trafficking. • Increase funding to NGOs to provide full-time availability for victim assistance. • Promote a victim-centered approach in child victim identification procedures. • Increase the number of labor inspectors in the field and grant them the power to proactively identify victims. • Include measurable outcomes in the national action plan to assess its progress. • Coordinate trafficking data collection and fund, maintain, and conduct trafficking research to create an evidence base for future policy decisions. • Establish a victim assistance hotline.

## PROSECUTION

The government decreased law enforcement efforts. Luxembourg criminalized sex trafficking and labor trafficking through Articles 382-1 and 382-2 of the criminal code and prescribed penalties of three to 10 years' imprisonment and a fine for trafficking offenses involving adult victims and 10 to 15 years' imprisonment and a fine for offenses involving child victims. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. Inconsistent with the definition of trafficking under international law, the law established the use of force, fraud, or coercion as aggravating factors rather than essential elements of the crime.

In 2019, the government initiated nine investigations (six of forced labor and three of sex trafficking), compared with 10 investigations in 2018, and seven in 2017. The government initiated two prosecutions (six in 2018 and one in 2017) and convicted two for labor trafficking in 2019 (eight in 2018 and seven in 2017). Courts issued weak sentences for trafficking convictions, a perennial problem that undercut efforts to hold traffickers accountable and protect victims. The government fully suspended both the convicted labor traffickers' prison sentences. The Supreme Court rejected a trafficker's request for judicial review of their 2017 sentence. In a 2019 appeal of a 2018 case, a court upheld the conviction against the trafficker, but the sentence remained fully suspended. Law enforcement officials reported a new law on prostitution hindered investigators' ability to search private homes suspected of prostitution. The police organized crime unit responsible for investigating trafficking comprised 13 investigators. Through police reform efforts, the government maintained the two-person victim protection unit, which ensured separation between victim assistance and investigations. In 2019, the government continued to provide anti-trafficking training to police, prosecutors, and judges. All 100 new police recruits received anti-trafficking training per mandated curriculum. Medical examiners from the government's unit for the documentation of injuries received anti-trafficking training. Police and investigators continued to participate in an ongoing labor trafficking investigation with Belgium involving five suspects in five companies and initiated one new sex trafficking investigation with Germany involving six suspects. The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking offenses.

## PROTECTION

The government increased efforts to protect victims. Authorities identified nine trafficking victims (six forced labor victims and three sex trafficking victims), compared with 14 in 2018, and 11 in 2017. All were foreign citizens, including seven women and two men. Two foreign victims were exploited in another country but received assistance in Luxembourg. Although NGOs reported labor inspectors continued to be chronically understaffed, the labor inspectorate increased its staffing in 2019; the number for field inspectors increased to 29 compared with 22 in 2018. The majority of labor inspectors received anti-trafficking training. In 2019, the government hired additional labor inspectors who were undergoing new recruit training. The government's national rapporteur on trafficking reported the labor inspectorate did not identify any victims despite investigations in highly vulnerable areas such as construction, domestic work, catering, and transportation. Labor inspectors did not have clear victim identification protocols and are not able to identify victims under Luxembourg law, but an increased number of inspectors received training and helped in victim detection by referring cases to law enforcement; the government's ratio of field inspectors to workers is less than half of the ILO's recommendation for highly industrialized countries.

All victims received assistance from government-funded shelters. The government utilized a national mechanism for victim referral and provided €359,420 (\$403,850) to the two NGOs responsible for coordinating trafficking victim care, an increase from the 2018 amount of €286,270 (\$321,650). The two NGOs continued to operate a maximum combined total of 60 hours per week; the limited operating hours continued to cause delays in victim assistance and hindered proactive operations. When the government identified victims outside operational hours, police could directly refer adult female and child victims to shelters; adult male victims could be housed temporarily in hotels until

longer-term housing could be identified. Adult male victims could receive the same access to long-term accommodation and other victim services as adult female and child victims. Victims could leave the shelters unchaperoned and at will during opening hours of their respective shelter. The government also provided €7.5 million (\$8.4 million) to assistance centers that provided shelter and assistance to adult female and child victims of crime, including trafficking victims, compared with €6.8 million (\$7.64 million) in 2018. The government further provided €98,860 (\$111,080) to an NGO responsible for coordinating male trafficking victim care.

The government had legal alternatives to removal to countries in which victims would face retribution or hardship. Victims were entitled to a 90-day reflection period to decide whether they wanted to testify, during which EU citizens could work. Upon expiration of the reflection period, the government could issue a foreign victim either temporary or permanent residency status, which conferred the right to work, depending upon the victim's willingness to cooperate with law enforcement and whether the victim was an EU national. Victim assistance was not contingent on cooperating with an investigation; however, the police had the sole authority to officially identify a victim and refer to government assistance. Victims who refused to cooperate with police did not benefit from a temporary authorization to stay, but otherwise received the full range of assistance. In December 2019, Luxembourg, the Netherlands, and Belgium signed a declaration of intent to strengthen their joint efforts in combating trafficking in persons, particularly to protect non-EU victims exploited in a territory other than that of the country where they seek help and assistance. Victims could participate in a witness protection program to ensure their security before, during, and after a trial. Victims could claim restitution from the government and file civil suits against traffickers. The government granted one victim restitution of €2,000 (\$2,250) during the reporting period.

## PREVENTION

The government maintained prevention efforts. The government's inter-ministerial trafficking committee, chaired by the Ministry of Justice met five times in 2019 (four in 2018), to coordinate anti-trafficking efforts and the national action plan. Some observers noted the government fragmented responsibilities between numerous ministries with little centralized communication, however, the government reported no issues. For example, three separate ministries coordinated funding for male, female, and child shelters. GRETA reported the national action plan, endorsed in 2016, is vague, lacked a timeframe on meeting objectives, and did not allocate any resources. In 2019, the government budgeted €15,000 (\$16,850) to fund awareness activities compared to the same amount in 2018. The Advisory Committee on Human Rights served as the independent rapporteur and produced its second biannual report in 2019. In 2019, the government trained an increased number of civil servants by offering its basic and advanced level anti-trafficking courses. The government continued its annual multi-faceted awareness campaign across media and news outlets and initiated a new campaign with the EU. The independent rapporteur reported the need to coordinate data collection across stakeholders. The government made efforts to reduce the demand for participation in international sex tourism by funding an NGO for local awareness campaigns focused on the prevention of child sex tourism. The government encouraged, but did not require, diplomats to attend anti-trafficking training. Labor laws allowed for recruitment fees but criminalized excessive amounts. In December 2019, the government adopted its 2020-2022 national action plan on implementing the UN Guiding Principles on Business and Human Rights, which seeks to

prevent forced labor in private sector supply chains. The government did not make efforts to reduce the demand for commercial sex acts, but criminalized soliciting a sex trafficking victim. The government did not operate a victim assistance hotline.

## **TRAFFICKING PROFILE**

As reported over the past five years, human traffickers exploit foreign victims in Luxembourg. Traffickers exploit victims from Europe, Africa, Asia, and South America in sex trafficking operations in cabarets, private apartments, and on the street. Increasingly, traffickers engage in forced labor crimes, sometimes involving Chinese, Pakistani, or eastern or southern European men, women, and children in various sectors, including restaurants and construction. Traffickers transport Romani children from neighboring countries for forced begging in Luxembourg. Groups vulnerable to traffickers' illicit schemes include migrant workers in domestic work, catering, construction, and begging, as well as unaccompanied foreign children and people in Luxembourg's legal and illegal commercial sex industry.