

Poland - United States Department of State

POLAND: Tier 2

The Government of Poland does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period; therefore Poland remained on Tier 2. These efforts included identifying more victims, convicting more traffickers at the first-instance court level, and sentencing more convicted traffickers to prison without suspending their sentences. The government also provided robust training for relevant authorities and continued awareness campaigns at both the national and provincial levels. However, the government did not meet the minimum standards in several key areas. Prosecutors continued to qualify trafficking crimes as lesser offences, and courts convicted fewer traffickers post-appeal. Funding for victim services remained stagnant for the fifth year, which constrained service provision. Government efforts to identify and protect child victims remained inadequate and authorities lacked a central mechanism to cross-reference and consolidate law enforcement statistics.

PRIORITIZED RECOMMENDATIONS:

Vigorously investigate and prosecute trafficking crimes, particularly forced labor cases, and sentence convicted traffickers to significant prison terms. • Increase training for prosecutors and judges on the importance of prosecuting under the anti-trafficking statute, the severity of trafficking crimes, and a trauma-informed, victim-centered approach to conducting trials. • Increase funding for comprehensive victim services, including specialized accommodation for child and male victims. • Improve central operational coordination and data collection for anti-trafficking activities. • Establish procedures or specialized units to ensure trafficking cases are handled by trained prosecutors. • Appoint trauma-informed officials to conduct child victim witness interviews in a child-friendly manner. • Increase proactive identification efforts, particularly among unaccompanied children, migrants, and child sex trafficking victims. • Create and widely distribute resources notifying foreign workers of their rights, responsibilities, and victim service providers. • Strengthen the capacity of the Labor Inspectorate to identify and refer victims of forced labor.

PROSECUTION

The government maintained law enforcement efforts. Article 189a of Poland's penal code criminalized sex trafficking and labor trafficking and prescribed punishments of three to 15 years' imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. Article 189a replaced Article 253 of the former criminal code, which prosecutors continued to use in cases that started when Article 253 was in effect. Article 253 of the former criminal code also prescribed punishments of three to

15 years' imprisonment. In addition, Article 203 criminalized inducing an adult into prostitution through force, fraud, or coercion, and Article 204.3 criminalized inducing a child into prostitution; both articles prescribed punishments of one to 10 years' imprisonment. The government lacked a central mechanism to cross-reference and consolidate law enforcement statistics and did not consistently disaggregate sex and labor trafficking data. Law enforcement authorities initiated 22 investigations under Article 189a (33 in 2018); nine were sex trafficking cases, five forced labor cases, and eight cases of multiple forms of exploitation. Prosecutors initiated 67 investigations from cases referred by police and border guards (79 in 2018) and prosecuted 46 defendants under Article 189a (47 in 2018); 26 were for sex trafficking, eight for forced labor, and 12 for multiple types of exploitation. The government also investigated 25 cases and prosecuted 27 defendants under Article 203 or Article 204.3. First-level courts issued 31 convictions under Article 189a (17 in 2018) and 20 convictions under Article 203 (16 in 2018). The government did not track first instance convictions under Article 204.3. In 2018, the most recent year for which post-appeal judgments were available, judges issued 10 convictions under Article 189a and Article 253 (24 in 2017), seven convictions under Article 204.3 (7 in 2017), and 18 convictions under Article 203 (11 in 2017). Of these, four were for forced labor (none in 2017). Judges issued 32 traffickers sentences ranging from one year's imprisonment to five to eight years' imprisonment and three traffickers received community service; however, authorities suspended 11 of these sentences (15 in 2017).

The National Police maintained an anti-trafficking department with 11 officers and 17 regional offices, each with three to eight officers investigating trafficking, child pornography, and child sexual abuse. The Central Bureau of Investigations maintained an anti-trafficking coordinator at its headquarters and in each of its 17 regional branches and the Border Guard operated a specialized central team and 10 regional anti-trafficking coordinators. Government and civil society representatives reported good cooperation with the national police and border guard. In 2018, the National Prosecutor's Office (NPO) introduced a formal mechanism to improve the qualification of offenses as trafficking; law enforcement could refer discontinued or dismissed trafficking investigations and prosecutions for review to the prosecutor responsible for coordinating trafficking investigations. The police referred seven cases to NPO (eight in 2018); NPO agreed with the police that six cases potentially involved trafficking (eight in 2018). Authorities did not report the number of reopened investigations (three in 2018) and the number of expanded charges to trafficking (five in 2018). However, experts reported district prosecutors continued to qualify trafficking as lesser offenses, such as pimping and forced prostitution, and NPO could not review every case due to the large case load. Despite NGOs assisting approximately 576 victims of forced labor in the last five years, authorities reported there were very few prosecutions for forced labor for several reasons: law enforcement had difficulty identifying forced labor; many offenses occurred abroad; there was no clear definition of what constitutes forced labor in the criminal code; and prosecutors and judges often lacked expertise in labor trafficking cases. Additionally, observers reported prosecutors and judges lacked familiarity with victim-centered approaches, the impact of trauma on victims, and the severity and complexity of the crime. The government maintained institutionalized training programs and trained police, border guards, prosecutors, judges, consular officers, and labor inspectors on various anti-trafficking issues, including standard operating procedures (SOPs), victim interviews, joint investigations, and other basic and specialized training. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking offenses. Authorities collaborated on investigations with counterparts in the United Kingdom (UK) and extradited two suspected traffickers from Sweden and two from Germany.

PROTECTION

The government increased protection measures. Authorities identified 221 potential victims (162 in 2018) and referred 104 to care facilities (47 in 2018); the government reported all victims were offered services but some chose not to accept them. The National Intervention-Consultation Center for Victims of Trafficking (KCIK) provided assistance to 226 potential victims (168 in 2018); 154 were victims of forced labor, 39 of sex trafficking, three of domestic slavery, two of degrading treatment, two of forced criminality, and 26 of other types of exploitation; 136 were male and 90 were female; 168 were foreign victims; and seven were children (three in 2018). The government maintained SOPs for the identification, referral, and support of trafficking victims, including standardized indicators and specific indicators to identify child victims. However, police and prosecutors acknowledged authorities lacked the expertise to identify forced labor victims and child victims, particularly among unaccompanied children. Labor inspectors did not identify any victims in 2019 and 2018, and noted challenges in determining whether an offense constituted as a violation of workers' rights or forced labor. Law enforcement used indicators with sample questions focused on freedom of movement but did not take psychological coercion or subtle forms of force into consideration.

KCIK provided adult and minor victims with medical and psychological care, shelter, legal counseling, welfare support, reintegration services, and referrals to orphanages and foster care for child victims. KCIK operated two shelters for adult female victims, a small shelter for men with capacity to accommodate three adult male victims, and rented apartments for victims who did not prefer shelters; the shelters and apartments housed a combined total of 58 victims (38 in 2018). Victims also could receive general assistance (social, medical, psychological, legal) in 170 crisis intervention centers operated and funded by local governments, 20 of which maintained staff trained on assisting trafficking victims; KCIK arranged accommodations for 54 victims using crisis centers and other locations (48 in 2018). In both 2019 and 2018, the government allocated 1.1 million zloty (\$290,310) to two NGOs that run KCIK, of which 105,000 zloty (\$27,710) went each year to operate a hotline. The government also allocated 80,000 zloty (\$21,110) to train welfare assistance personnel on assisting trafficking victims and witnesses, compared with 84,000 zloty (\$22,170) in 2018. Funding for victim services remained stagnant for the fifth year following a 10 percent increase in 2015. Experts said limited government funding for victim assistance constrained service provision, particularly outside of Warsaw and Katowice. For example, shelter capacity for male victims was insufficient with the increasing number of male victims of labor trafficking. The government also allocated inadequate resources to specialized care for child victims according to experts, who noted authorities placed child victims in foster families or orphanages unprepared to assist child victims. NGOs and academics reported there was no clear system of assistance to meet the needs of unaccompanied children. All foreign victims from outside the European Economic Area (EEA) formally identified by law enforcement were entitled to social welfare benefits, including crisis intervention assistance, shelter, meals, necessary clothing, and financial assistance; 20 non-EEA national victims received assistance (24 in 2018). Victims from the EEA had access to the full scope of welfare benefits offered to Polish citizens if they could prove habitual residency, but NGOs reported victims from Romania and Bulgaria had problems proving this; the government did not track whether EEA nationals received social welfare assistance.

Government and civil society representatives reported no cases of victims penalized for unlawful acts traffickers

compelled them to commit and authorities screened individuals in vulnerable populations when detained and arrested, including individuals in commercial sex and migrants. Foreign victims were entitled to a three-month reflection period, during which they could stay legally in Poland to decide whether to assist in the criminal process; authorities granted 120 victims a three-month reflection period (five in 2018). Foreign victims were eligible for a residency permit valid for up to three years, which entitled them to work, and could apply for permanent residency; the government did not report how many victims received temporary or permanent residency. The government, in cooperation with an international organization, assisted three foreign victims to return to their home countries (two in 2018). Polish law permitted victims to provide testimony via video or written statements; audio-video recording of testimony was obligatory for victims under 15 years of age and for victims of sexual crimes, including sex trafficking. The government reported 208 victims agreed to cooperate in investigations of their traffickers. Experts noted law enforcement and prosecutorial interview techniques lacked a trauma-informed approach, hindering opportunities to build rapport with traumatized victims, who then were unlikely to provide reliable testimony. NGOs reported judges interviewed children and did not receive training on child-friendly, victim-centered, or trauma-informed interviewing techniques, which re-traumatized victims. Prosecutors rarely requested restitution in criminal proceedings but judges ordered traffickers to pay restitution to eight victims. Victims could also receive compensation in civil suits.

PREVENTION

The government maintained prevention efforts. In 2018, the government dissolved the inter-ministerial anti-trafficking team that met at the deputy minister level twice a year and reported to the prime minister, curtailing high-level inter-ministerial coordination and prioritization of efforts to combat trafficking. The MOI maintained an advisory body, including interagency and civil society representatives, tasked with evaluating the implementation of anti-trafficking projects, monitoring national action plan implementation, and preparing annual reports. Civil society praised the decision to expand the number of civil society member representatives and granted them voting rights but expressed concern that the new body operated at a lower level and presumably would not be able to compel other ministries to devote resources to specific tasks. The government allocated 135,000 zloty (\$35,630) for the implementation of the 2019-2021 national action plan in both 2019 and 2018; however, 38,000 zloty (\$10,030) came from sources outside the government. The Ministry of Interior (MOI) published an annual report and maintained a web portal with relevant statistics, publications, and information on victim assistance. The government lacked a central mechanism to cross-reference and consolidate trafficking-related statistics, hindering officials' ability to assess the scope of trafficking and the efficacy of law enforcement efforts. Provincial-level interagency anti-trafficking teams in all 16 regions continued prevention and public awareness campaigns and organized trafficking-related trainings and conferences for NGOs and professional associations. Observers noted these provincial-level anti-trafficking teams were uncoordinated and uneven in their effectiveness. The government organized public meetings, in cooperation with NGOs, to raise awareness on trafficking and separately printed 15,000 leaflets and 10,000 posters targeting vulnerable youth.

A government-funded NGO operated a 24-hour hotline for trafficking victims and witnesses, which received 6,899 calls (9,000 in 2018); the hotline did not maintain statistics on how many calls were trafficking-related or how many

victims were identified. Local authorities could ban employers previously convicted of trafficking from hiring foreigners; the government did not report whether any entities were banned. The National Labor Inspectorate (NLI) identified 39 job recruitment agencies operating illegally and removed them from the official registry of legally operating recruitment agencies (33 in 2018). The NLI conducted 651 inspections of job recruitment agencies (655 in 2018), but did not identify any cases of trafficking or any agencies presenting fraudulent job offers. Additionally, the NLI continued an awareness campaign targeting employers and workers to encourage legal employment among migrant workers, in particular from Ukraine, and to provide practical information to employers on legally hiring foreign workers. However, observers reported local authorities took 10 to 12 months to issue work permits to migrants, who often worked illegally during this time and were vulnerable to exploitation. The government made efforts to reduce the demand for commercial sex acts and child sex tourism, including by cooperating with an NGO to create a “code of conduct” for businesses in tourism to prevent sexual exploitation of children.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Poland, and traffickers exploit Polish victims abroad. Traffickers exploit Polish women and children in sex trafficking within Poland and other European countries, notably France and Germany. Traffickers force men and women from Poland into forced labor in Europe, primarily Western and Northern Europe and in particular Germany, Norway, Sweden and the UK. Traffickers exploit women and children from South America and Eastern Europe—particularly Bulgaria, Romania, and Ukraine—in sex trafficking in Poland. Labor trafficking is increasing in Poland; victims originate from Europe, Asia, and Africa. Traffickers increasingly exploit migrants in forced labor among Poland’s growing Ukrainian, Belarusian, Filipino, and Vietnamese populations, particularly in restaurants and construction. Traffickers recruit children, particularly Roma, for forced begging in Poland.

Pursuant to a 2017 UN Security Council resolution requiring, with limited exceptions, the repatriation of all North Korean nationals earning income overseas by the end of 2019, the government reportedly repatriated all North Korean labor migrants covered under the relevant provision.