

Austria - United States Department of State

AUSTRIA: Tier 1

The Government of Austria fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore Austria remained on Tier 1. These efforts included prosecuting and convicting more traffickers and sentencing more traffickers to significant prison terms. The government continued to implement a national referral mechanism and trained judges and prosecutors on victim restitution in criminal cases. Although the government meets the minimum standards, there were some gaps in the assistance referral process for potential victims of trafficking among migrants and asylum-seekers. The government identified relatively few child and labor trafficking victims and has not identified any Austrian trafficking victims in recent years.

PRIORITIZED RECOMMENDATIONS:

Increase efforts to identify victims among vulnerable groups—including children, asylum-seekers, and individuals in commercial sex—and ensure all victims have access to services. • Increase efforts to identify victims of labor trafficking, such as by training front-line responders to recognize indicators of labor trafficking, including subtle means of fraud or coercion. • Sentence convicted traffickers to adequate penalties, which should involve significant prison terms, consistent with those imposed for other serious crimes, such as rape. • Continue to strengthen cooperation with source country governments to promote awareness of trafficking among potential victims and to prosecute transnational trafficking rings. • Increase efforts to identify potential victims among Austrian citizens. • Increase the level of detail contained in the government law enforcement database on investigations, prosecutions, convictions, and sentencing to include all cases of trafficking and disaggregate information on convictions and sentencing where defendants have committed multiple crimes. • Appoint an independent national anti-trafficking rapporteur.

PROSECUTION

The government modestly increased law enforcement efforts. Article 104a of the criminal code criminalized sex trafficking and labor trafficking and prescribed penalties of six months' to five years' imprisonment for offenses involving an adult victim, and one to 10 years' imprisonment for those involving a child victim. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as kidnapping. Authorities also prosecuted sex trafficking under Article 217, which criminalized all transnational prostitution and prescribed penalties of one to 10 years' imprisonment when a trafficker induced a

foreign individual to engage in prostitution by force, fraud, or coercion.

The Federal Crime Office's (FCO) human trafficking and smuggling service led the government's efforts to investigate trafficking crimes and coordinated joint investigations with foreign law enforcement when necessary. Many public prosecutors' offices had specialized anti-trafficking divisions and some courts had specialized judges. The government conducted 66 investigations involving at least 102 suspects under Article 104a, compared with 71 investigations of 129 suspects in 2018 and 94 investigations of 144 suspects in 2017. The government initiated prosecutions against eight defendants and continued 13 ongoing prosecutions in 2019, compared with 16 total prosecutions in 2018 and 19 in 2017. Courts convicted 10 traffickers under Article 104a, compared with eight in 2018 and three in 2017. The government prosecuted 22 defendants and convicted nine under Article 217, but it did not specify how many involved trafficking offenses. The government statistics agency published comprehensive data on criminal cases, including convictions and sentences, but it classified multi-offense convictions by the crime that carried the most severe punishment; some trafficking crimes may have been recorded as other offenses. The most recent data the agency published on prison sentences was from 2018, when courts sentenced five traffickers under Article 104a. One received a prison term of three to five years, two received terms of one to three years, one received a partially suspended sentence of two to three years, and one received a suspended sentence of three to six months. Additionally, one individual convicted under Article 217 received a partially suspended sentence of one to two years. Despite the lack of comprehensive data for 2019, individual case reports provided some sentencing information. In one case, from June 2019, a Vienna court convicted five traffickers; the court issued one prison sentence of five years, three sentences of four to six years, and one partially suspended three-year sentence. In a July 2019 case, courts sentenced one trafficker to a 42-month prison term and another to a partially suspended two-year sentence. An international organization expressed concern that authorities were sometimes confused about whether to charge a suspected trafficker under Article 104a or Article 217, as the transnational prostitution statute pre-dated the trafficking law but still applied to trafficking crimes. The international organization noted this confusion could lead to gaps in data collection, including with respect to data on victim identification.

The government, assisted by an NGO, provided specialized training to authorities, including law enforcement, border control, labor inspectors, prosecutors, and judicial personnel. Law enforcement officials received mandatory training on trafficking as part of their basic training and had opportunities for additional training and seminars throughout their careers. The FCO increased efforts to train law enforcement on digital methods of combating trafficking in response to a rising trend in traffickers' use of social media and online recruitment. National and provincial governments cooperated with authorities from other countries, including neighboring EU countries, to investigate and prosecute trafficking cases. Authorities reported a case of forced labor in a diplomatic household; the case was ongoing at the end of the reporting period. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses.

PROTECTION

The government maintained protection efforts. The government continued to implement a national referral

mechanism, launched in November 2018, to identify adult victims and refer them to care. Authorities used guidelines and checklists to screen potential victims for indicators of trafficking and referred identified victims to NGOs for assistance. Government-funded NGOs provided shelter, medical and psychological care, legal assistance, and German language classes to adult victims, including specialized services for victims with disabilities. A separate referral mechanism for children guided local authorities in identifying and providing services to child victims. One government-funded NGO reported it provided services to 336 female victims and their children in 2019 (339 in 2018 and 327 in 2017), of whom police referred 109 and other government agencies referred 46. Some of these victims may have been children, as the organization provided assistance to women and girls age 15 years and older. Another NGO, which provided government-funded services for male victims, reported assisting 65 victims in 2019, although it did not specify how many of these were government referrals. As in previous years, the government did not identify any victims of Austrian citizenship. Although identification statistics did not disaggregate labor and sex trafficking cases, the majority of identified victims were exploited in sex trafficking. Experts noted, however, that the relatively low number of identified forced labor cases could be attributed to authorities' failure to recognize labor trafficking indicators rather than to low prevalence.

The government allocated €988,110 (\$1.1 million) to specialized anti-trafficking NGOs to provide shelter, services, and legal support to victims in 2019, compared to €944,750 (\$1.06 million) in 2018; it also allocated €274,590 (\$308,530) to an NGO providing specialized services for male victims between April 2018 and December 2019. The Ministry of Labor provided an additional €410,000 (\$460,670) for support of NGO-run counseling centers for male trafficking victims and undocumented migrants for the period from June 2018 to December 2019. Government funding comprised the bulk of support for these organizations. The city of Vienna funded a government-run center for unaccompanied minors, including child trafficking victims, offering legal, medical, psychological, social, and language assistance; the center reported it did not provide assistance to any child trafficking victims in 2019. The government provided training to NGOs working with migrants and asylum-seekers to help them identify trafficking victims among these groups. Law enforcement personnel screened individuals in commercial sex, including in brothels and massage parlors, for indicators of trafficking and monitored websites selling commercial sex to identify victims. The government funded NGOs to provide training on victim identification for law enforcement, labor inspectors, detention and asylum center authorities, border control, revenue officials, and military and diplomatic personnel.

The law provided for the protection of victims' rights during criminal proceedings. NGOs were permitted to accompany victims to hearings and interviews. Courts provided trauma-informed methods for presenting evidence and testimony when victims needed protection from traffickers during the investigation and prosecution phases. Victim protection procedures granted victims a 30-day reflection period to decide whether to assist in the prosecution of their traffickers; some NGOs reported concerns about inconsistencies in the reflection period and noted that victims were not always informed of this right. Victims' access to services was not dependent on their willingness to participate in the criminal process. The Ministry of Justice reported providing, via NGOs, psycho-social and legal assistance during criminal proceedings to 150 trafficking victims in 2019. Foreign trafficking victims from outside the EU had the right to temporary residency, with possible annual extensions, which allowed access to employment; victims from EU member states did not require residence permits. The government granted 13 residence permits and extended 24 permits to trafficking victims in 2019. Victims who chose to return to their country of origin received

repatriation assistance from government-funded NGOs.

Victims could file civil suits against traffickers for damages and compensation, even in the absence of a criminal prosecution, and could still pursue civil suits in the event of an acquittal in the criminal case. Courts could award restitution upon criminal conviction; in 2019, courts awarded restitution to 25 victims in trafficking cases. The government organized training seminars for prosecutors and judges on victim compensation and the criminal process. The Ministry of Justice published guidelines for the non-punishment of victims for unlawful acts traffickers compelled them to commit. Administrative fines for illegal commercial sex or immigration violations were forgiven if the individual was found to be a victim of trafficking. However, gaps in victim identification may have left some victims unidentified in the law enforcement system. In one case in 2019, a victim was convicted for presenting fake identification to police during a brothel inspection; an appellate court overturned the conviction. Experts noted gaps in the government's referral process for suspected cases of exploitation among asylum-seekers; some migrants who showed signs of trafficking may have been sent to other countries in the EU without receiving services due to the government's enforcement of EU regulations on asylum-seekers.

PREVENTION

The government maintained efforts to prevent trafficking. A national anti-trafficking task force led the government's efforts and included representatives from federal ministries, provincial governments, NGOs, industry, and civil society. The task force included working groups to address issues of particular concern, including child sex trafficking and non-punishment of victims, and led the drafting and implementation of the National Action Plan for 2018-2020; the plan called for expanded training for officers in detention centers and staff of asylum centers, with a focus on victim identification. The government published an implementation report assessing its progress in combating trafficking under the previous national action plan, which covered the period from 2015-2017. A senior foreign ministry official headed the task force and served as the national anti-trafficking coordinator; Austria did not have an independent anti-trafficking rapporteur to evaluate the effectiveness of government efforts.

The government organized and funded public awareness events and programs, including a conference for approximately 400 participants from civil society, international organizations, and members of the diplomatic corps. It also continued its program to raise awareness in schools, subsidized anti-trafficking publications and television programming, and funded outreach activities to individuals in commercial sex. The ministry of labor provided an online resource for migrant workers that was available in seven languages and included information on labor laws, minimum wage standards, collective agreements, and rights of workers; it also funded a counseling center for undocumented workers to inform them of their rights and assist those workers in exploitative situations. The government trained labor inspectors to identify trafficking victims using a set of guidelines developed by the national task force's labor trafficking working group and worked with business and labor organizations to raise awareness among seasonal agricultural workers. However, observers noted the labor inspectorate's mandate was limited to addressing health and safety conditions, which hindered inspectors' ability to respond to other exploitative work conditions. Austrian embassies and consulates in source countries informed visa applicants of the potential dangers of

trafficking. The FCO operated a 24-hour trafficking hotline that received 500-600 calls and emails annually, with translation available in multiple languages. The foreign ministry continued efforts to prevent trafficking among employees of diplomatic households by holding events to inform them of their rights and by requiring them to obtain identification cards in person. The government partnered with neighboring governments and regional organizations to combat transnational trafficking; the FCO continued programs with China and Nigeria to combat cross-border trafficking and improve and expand joint investigations. The government made efforts to reduce the demand for commercial sex acts, including by distributing awareness materials on the possibility of sex trafficking in commercial sex and by regularly screening individuals in commercial sex for trafficking indicators. The government made efforts to reduce the demand for participation in international sex tourism by its citizens, including by airing an awareness video in places such as airports and hotels, as well as on outbound flights, and by raising awareness within the tourism industry. The government continued to enforce public procurement guidelines for the elimination of labor trafficking in the purchase of goods and services; the national action plan for 2018-2020 contained measures to address human trafficking in supply chains.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit foreign victims in Austria. Traffickers exploit women and girls from Eastern Europe (especially Bulgaria, Hungary, Romania, and Slovakia), Southeast Asia, China, Nigeria, and South America in sex trafficking. More than 95 percent of identified victims are foreign women subjected to sex trafficking, and approximately 65 percent of trafficking victims come from EU member states. Traffickers exploit women from Nigeria and China in sex trafficking in massage parlors and brothels; many Nigerian victims arrive in Austria as asylum-seekers. Although no Austrian citizens have been identified as victims of trafficking in recent years, some Austrian women engage in activities such as commercial sex, which leave them vulnerable to trafficking. Sex trafficking is concentrated in urban areas but also occurs in smaller towns. Traffickers working in well-developed networks recruit sex trafficking victims with fraudulent offers of employment in restaurants and domestic service or by posing as potential romantic partners. Most traffickers are Austrian men or men from the same country as their victim; many are members of international organized crime groups. Observers note an increasing trend in labor trafficking. Traffickers exploit men and women from Eastern Europe, Southeast Asia, and China in forced labor, primarily in restaurants, construction, agriculture, health care, and domestic service, including in diplomatic households. Seasonal migrants are especially vulnerable to labor trafficking, particularly during the harvest seasons. Traffickers exploit children, physically and mentally disabled persons, and Roma in forced begging. Children, especially Romani girls, are also exploited in forced criminality. Traffickers use Austria as a transit point in moving victims to other European countries.