

# Ireland - United States Department of State

## IRELAND: Tier 2 Watch List

The Government of Ireland does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included increasing prosecutions and funding to NGOs for victim assistance. The government also increased the number of police and immigration officers that received anti-trafficking training and reorganized its anti-trafficking coordination unit. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. The government has not obtained a trafficking conviction since the law was amended in 2013, which weakened deterrence, contributed to impunity for traffickers, and undermined efforts to support victims to testify. The government continued to have systematic deficiencies in victim identification, referral, and assistance. The government continued to lack specialized accommodation and adequate services for victims, and the amended working scheme for sea fishers increased their vulnerability to trafficking. Therefore Ireland was downgraded to Tier 2 Watch List.

## PRIORITIZED RECOMMENDATIONS:

Vigorously investigate, prosecute, and convict suspected offenders of both sex and labor trafficking using the trafficking law. • Train law enforcement and prosecutors on developing cases with evidence to corroborate victim testimony and train law enforcement, judges, and prosecutors on a victim-centered approach. • Improve victim identification and referral, and issue a revised referral mechanism in coordination with NGOs offering formal identification, a recovery and reflection period, and services to all victims. • Allow formal victim identification by and referral from entities other than the police, including civil society, social workers, and healthcare professionals. • Allow all victims to access the national referral mechanism without requiring cooperation with law enforcement. • Increase efforts to identify and protect all victims, especially of labor trafficking and forced criminality, including vulnerable populations such as sea fishers. • Discontinue joint inspections between labor inspectors and immigration authorities, which pose a barrier to identification of victims, or ensure immigration authorities receive training in the identification of trafficking victims. • Adopt a legal provision to exempt victims from inappropriate penalization for unlawful acts traffickers compelled them to commit. • Offer specialized accommodation to trafficking victims. • Enforce the amended rules for the working scheme for sea fishers to reduce their risk of labor trafficking. • Increase legal assistance for trafficking victims, including for assisting in investigations and court proceedings, which can be accessed at the earliest opportunity and prior to engaging with police. • Establish a national hotline to report trafficking crimes and provide victim assistance and referral. • Increase efforts to order restitution for victims, particularly for undocumented workers or those involved in sex trafficking. • Establish an independent national rapporteur to help identify and address gaps in anti-trafficking strategy and efforts. • Increase coordination between

law enforcement and prosecutors through regular case conferencing, and consider prosecution-assisted investigations on trafficking cases. •Prioritize investigating fraudulent labor recruitment and labor trafficking, and prosecute these crimes as trafficking rather than labor code violations.

## PROSECUTION

The government decreased law enforcement efforts and has not obtained a trafficking conviction since 2013. The 2008 Human Trafficking Act, amended in 2013, criminalized sex trafficking and labor trafficking and prescribed penalties up to life imprisonment, which were sufficiently stringent and, with respect to sex trafficking, commensurate with punishments prescribed for other serious crimes, such as rape. The law broadly defined sexual exploitation to include the sexual abuse of children. The Criminal Justice (Sexual Offences) Act of 2017 criminalized the purchase of sexual services and prescribed more severe penalties for the purchase of sex from a person subjected to trafficking. In such cases, the burden of proof shifted to the accused, who had to prove they were unaware the victim was exploited in trafficking.

The national police anti-trafficking unit reported 39 investigations in 2019 (36 for sex trafficking and three for labor trafficking, which included two for forced criminality), a significant decrease compared to 64 investigations in 2018. There were several ongoing investigations that began in prior reporting periods. The government initiated prosecutions for five suspects, two for sex trafficking and three for forced labor (compared to zero in 2018, three in 2017, and nine in 2016). Coordination between law enforcement and the Office of the Director of Public Prosecutions (ODPP) continued to be ineffective during the reporting period. Although the national police submitted one notable labor trafficking investigation involving 21 sea fishers, 20 of whom received victim support services for trafficking victims from the government during the reporting period, to ODPP in 2019, ODPP informed victims that they had found no evidence of trafficking and would not prosecute. For the sixth year in a row, the government did not convict any traffickers; to date, there have been zero convictions under the anti-trafficking law, as amended—though the government has reported identifying 471 victims since 2013. In its 2017 report, GRETA expressed concern about the inadequate criminal justice response, noting the failure to convict traffickers and the absence of effective sentences could contribute to impunity and undermine efforts to support victims to testify. The ODPP had a specialized team responsible for prosecuting trafficking crimes. However, the government did not have specialized judges or courts that could hear trafficking cases, and judges often had little understanding of trafficking crimes or familiarity with the behavior of traumatized trafficking victims. Civil society continued to express concern regarding the lack of judicial training and noted that victims who did not self-identify were often sentenced to harsh punishments for crimes committed as a direct result of being subjected to trafficking.

During the reporting period, 58 police officers, NGO members, and Ministry of Justice officials participated in a three-day training course on trafficking (127 in 2018). The government reported providing basic trafficking training to 1,541 police officers and 100 immigration officers, a significant increase compared to 650 and 47, respectively, in 2018. The government did not report training front-line social protection officers, senior investigating officers (77 in 2018), detective sergeants (81 in 2018), or workplace relations commission inspectors (eight in 2018) during the reporting

period. An unknown number of border police received a weeklong training on labor trafficking, specifically focused on the fishing industry. The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking. In 2019, the national police concluded three international investigations and continued one investigation with police in United Kingdom.

## PROTECTION

The government decreased victim protection efforts. Authorities identified 42 suspected trafficking victims, a significant decrease compared with 64 in 2018 and 57 in 2017, and the lowest number since 2013. The government significantly decreased efforts to identify victims of forced labor and did not report identifying any Irish national victims. Of the victims identified in 2019, 34 were exploited in sex trafficking and six in labor trafficking (which included three victims of forced criminality and two victims of domestic servitude), and two were combinations of both; this compared to 27 victims of sex trafficking and 35 victims of labor trafficking in 2018. Of the 42 victims identified in 2019, 38 were female (seven of whom were children) and four were male (two of whom were children). Two victims of forced criminality were forced to work in cannabis grow houses and one was forced to sell illegal substances. During the reporting period and following a legal settlement with an NGO, the government amended its atypical working scheme for sea fishers to reduce their vulnerability to labor trafficking. The government identified zero trafficking victims in the fishing industry for 2019, compared to 23 victims in 2018. NGOs asserted that foreign national sea fishers outside of the European Economic Area (EEA) were even more at risk because the government no longer identified victims; advised victims to adjust their residency status, as they no longer qualified for residence permits as trafficking victims; and failed to enforce the amended rules. The government did not report the number of victims repatriated, compared to 15 in 2018. Border police conducted interviews with three sea fishers and 115 children at airports but did not identify any trafficking victims. Though inspectors reported conducting more than 1,500 inspections of at least 9,000 workers, including 39 joint inspections with the police, the government did not report identifying any trafficking victims as part of these inspections in 2019, or in 2018, or 2017. Civil society continued to raise concerns regarding the government's ongoing, chronic deficiencies providing assistance and protection to trafficking victims.

Experts continued to raise concerns regarding the government's inability to identify trafficking victims due to shortcomings in its identification mechanism. While the government had national formal procedures for victim identification, they were valid only for victims lacking legal residency in Ireland, namely foreign nationals from outside the EEA who were not asylum-seekers. The formal identification scheme excluded EEA-nationals, including Irish nationals, and asylum-seekers with pending applications. As a result, the government did not formally identify such persons as suspected victims of trafficking, with implications for their access to social welfare and other specialized victim services, as reported by GRETA. According to the government, in practice, domestic and foreign victims had equal access to all state services. GRETA and NGOs, however, asserted EEA-national victims were excluded from accessing social welfare and other state support until they satisfied or were granted an exemption from the Habitual Residence Condition.

The government maintained it assessed suspected victims on a “reasonable grounds” basis to allow them access to support and services. However, NGOs and lawyers asserted the national police lacked consistent standards when assessing victims; anti-trafficking efforts varied widely throughout the country; there was no consistently used formal referral mechanism for all police units for sex trafficking victims. NGOs and other front-line responders did not have a formal role in the formal identification of victims; though police could receive victim referrals from any source, they were the only entity with the authority to formally identify victims. In its 2017 report, GRETA criticized this exclusive police authority, asserting that it created a potential conflict of priorities between law enforcement efforts and victim assistance. A formal victim statement to police and a law enforcement referral were required for potential victims to access the national referral mechanism; victims unwilling to go to the police could access emergency accommodation, counseling, medical care, and legal services from two NGOs that received government funding, but not through the referral mechanism. In 2017, the government reported plans to institute a new and revised referral mechanism; however, the government has not issued the revised mechanism. While experts welcomed ongoing government plans to develop the new mechanism, they expressed concern with the slow pace and the lack of clarity surrounding its development. Of the 42 victims police formally identified, they referred 26 to legal aid services; they did not report what services other victims received or how many were found ineligible to receive services due to Habitual Residency Condition restrictions.

Through the national referral mechanism, which was administered at government-run direct provision centers, the government provided victims with health services, immigration permission, accommodation, welfare and rent allowance, police assistance, residence permits, repatriation, translation and interpretation assistance, and access to education for dependent children. There was no legally mandated psychological assistance for victims, and the counseling services provided by NGOs were insufficient. NGOs reported a lack of specialized services to address the physical and mental health needs of victims. The government’s legal aid board provided information to potential victims referred by police, but it did not provide legal assistance or support to victims during investigations or trials. One government-funded NGO provided legal representation for victims. GRETA urged the government to ensure victims had early access to legal practitioners with specialized knowledge of trafficking who could represent them. NGOs noted instances where trafficking victims were persuaded to plead guilty to commercial sex-related charges because they did not fully understand their legal protections.

The government provided €350,000 (\$393,260) to an NGO for assistance for sex trafficking victims, compared with €325,000 (\$365,170) in 2018. The government also provided €84,500 (\$94,940) to another NGO to assist labor trafficking victims, a significant increase compared to €50,000 (\$56,180) in 2018. The government remained without dedicated shelters for victims of trafficking. Although the government provided accommodation arrangements for potential victims, NGOs stated the mixed-gender housing in the direct provision system, a system originally established to provide services for asylum-seekers, had inadequate privacy, was unsuitable and potentially unsafe for traumatized victims, could expose them to greater exploitation, and undermined victim recovery. Experts also noted a lack of specialized services in the centers for all victims, but especially for female victims who had been traumatized due to psychological, physical, or sexual violence. Potential victims who were in the asylum process remained in direct provision accommodation while a determination was being made in relation to their claim for international protection, which could continue for years. While the government, including a parliamentary committee, acknowledged the lack

of adequate accommodation and planned to develop alternative government-funded accommodation, officials took no concrete steps during the reporting period.

The government gave potential foreign trafficking victims temporary relief from deportation, contingent upon cooperation with an ongoing investigation. The government issued some form of immigration permission to nine victims during 2019, a significant decrease compared to 47 in 2018. The permissions were granted through a 60-day recovery and reflection period, a six-month temporary residence permission, or a two-year residence permission that allowed the holder to engage in legal employment. The government precluded victims who sought asylum from obtaining six-month renewable residence permits, which limited their access to certain benefits, such as work permits. NGOs reported the six-month periods acted as a barrier to work and that the recovery and reflection period was not uniformly granted to victims. The temporary protection could evolve into permanent residency, and residency benefits were not linked to a conviction; however, during the reporting period, the government advised several victims to apply to change their residency status, as they were no longer considered trafficking victims after the ODPP declined to pursue prosecution. The government did not provide compensation to any victims during the reporting period. The law did not provide restitution to victims for the crime of trafficking, but victims could obtain restitution for lost wages through a criminal trial, a civil suit, state bodies dealing specifically with work-related rights, and the criminal injuries compensation tribunal. In 2019, the Labor Relations Court (LRC) awarded €137,000 (\$153,930) in restitution to eight trafficking victims for lost wages; however, victims infrequently received payment, as the court did not have enforcement authority, and employers would frequently close down, transfer directorship, leave the country, or claim inability to pay. NGOs criticized the lack of viable avenues for victim restitution, particularly those involved in sex trafficking and undocumented workers. Victims of sex trafficking had no verifiable expenses or employment losses, and the LRC was unavailable to undocumented workers, who could only pursue civil suits if they could prove they took all reasonable steps to rectify their irregular working status. The law protected the privacy and identity of victims in court proceedings and allowed victims to testify via video link at the discretion of the judge; this was not uniformly granted. In 2019, a judge declined to allow trafficking victims who had left the country the option to testify by video link, which resulted in case dismissal.

GRETA urged adoption of a specific legal provision on the non-punishment of victims of trafficking in both its 2013 and 2017 reports, and, in 2015, the Irish high court found a need for protocols or legislation that dictate what happens when a victim is suspected of criminal activity; however, the trafficking law did not protect victims from prosecution for crimes committed as a direct result of being subjected to trafficking. NGOs noted the process for victims to seek immunity from punishment for criminal activity as a result of trafficking was complex and required early legal representation. If authorities prosecuted an individual before they were formally identified as a trafficking victim, their criminal record could not be expunged. NGOs noted that the government continued to detain potential victims in prison for cannabis production prior to assessing whether they were victims of trafficking and urged the government to complete the identification process first. However, a police officer with specialized trafficking training accompanied teams conducting cannabis-related arrests to identify trafficking indicators and advise victims, and the Human-Trafficking Investigation and Coordination Unit continued to examine all crimes for forced criminality. The government did not report how many reviews of cannabis production cases for possible trafficking indicators police conducted, the number of victims identified, or the number of cases overturned for 2019, compared to 70 reviews in

2018 with no victims identified and no prosecutions overturned. The government reported the national police collaborated with ODPP to ensure victims were not prosecuted.

## PREVENTION

The government maintained prevention efforts. Following a reorganization, the justice ministry's criminal justice policy unit was responsible for coordinating interagency efforts, awareness raising, providing funding to anti-trafficking civil society organizations, collecting data, and publishing an annual report. The government did not report how many times the policy unit met with other government units combating trafficking during the reporting period. It was uncertain whether the government followed its national anti-trafficking action plan; the plan adopted in 2016 had no timeframe, budget allocation, or indication of agencies responsible for its implementation. The government continued extensive efforts to raise awareness of trafficking by maintaining a website that provided information on human trafficking and encouraged the public to report possible cases of trafficking to authorities. Other government entities distributed human trafficking leaflets at airports, produced newsletters on human trafficking for distribution to NGOs and other stakeholders, cooperated with a government-funded NGO to produce a televised interview with a trafficking victim, staffed booths at farming events attended by 81,000 people to raise awareness on labor trafficking in the agricultural sector, released booklets on human trafficking to approximately 5,000 nurses, participated in workshops on victim restitution, gave speeches and presentations to a variety of entities, and many other awareness raising efforts. Labor recruitment and employment agencies were required to have a license. The government did not report investigating or prosecuting any labor recruitment agencies for fraudulent labor recruitment or labor trafficking. The workplace relations commission (WRC) provided information on employment rights to approximately 54,748 callers (57,300 in 2018) and made 54 presentations (58 in 2018) on employment rights. The workplace relations commission could not regulate agencies who recruited domestic workers under the designation of "au pairs", who were allowed to work up to 20 hours per week without the need for a work permit. NGOs reported employers regularly paid au pairs less than minimum wage and forced them to violate the 20 hours of work per week maximum, creating vulnerability to labor trafficking. The WRC reported conducting 4,800 labor inspections (5,700 in 2018), half of which were unannounced, but did not report identifying any trafficking victims. While the WRC did convict several employers for employment-related offenses, they did not report investigating any companies for labor trafficking. Joint inspections between labor inspectors and immigration enforcement authorities intimidated undocumented potential victims and posed a barrier to the identification of victims. The government prohibited convicted human traffickers from being selected for public contracts. The government made efforts to reduce the demand for commercial sex acts by interviewing, arresting, and initiating prosecutions of several purchasers of commercial sex during the reporting period. The government also provided €96,050 (\$107,920) for research and awareness raising projects in relation to the criminalization of the purchase of sex and the inherent exploitation involved, which was a decrease compared to €159,400 (\$179,100) in 2018. The government did not fund the operation of a dedicated trafficking national hotline but promoted a general crime hotline for anonymously notifying police about various crime incidents; police officers staffed the hotline, which was available for 12 hours daily. The government did not report the number of calls received for trafficking-related cases during the reporting period. The national police had a dedicated email address for reports of trafficking; the police took action stemming from 67 emails, a significant

increase compared with 30 in 2018.

## **TRAFFICKING PROFILE**

As reported over the past five years, human traffickers exploit domestic and foreign victims in Ireland, and traffickers exploit victims from Ireland abroad. Traffickers subject Irish children to sex trafficking within the country. Foreign trafficking victims identified in Ireland are from Africa, Asia, Eastern Europe, and South America. Authorities and media have reported an increase in suspected victims from Nigeria, Romania, Indonesia, Brazil, and Pakistan. Traffickers exploit victims of forced labor in domestic work, the restaurant industry, waste management, fishing, seasonal agriculture, and car washing services. Vietnamese and Chinese individuals who are convicted for cannabis cultivation often report indicators of forced labor, such as document retention, restriction of movement, and non-payment of wages. Undocumented workers in the fishing industry and domestic workers, particularly au pairs, are vulnerable to trafficking. The government has reported the problem of forced labor in the country is growing. Women from Eastern Europe who are forced into marriage in Ireland are at risk for sex trafficking and forced labor.