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USDOS – US Department of State

Trafficking in Persons Report 2018 - Country Narratives - Chile

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. The government demonstrated serious and sustained efforts by tripling the number of convictions, increasing funding for victim services, assisting a greater number of child sex trafficking victims, and securing a line item budget for the national action plan. Although the government meets the minimum standards, weak sentences for trafficking convictions continued to hamper efforts to deter and hold traffickers accountable. No convicted traffickers received prison sentences during the year. The government continued to prosecute and convict internal child sex trafficking cases under a law that did not prescribe penalties commensurate with other serious crimes. The government did not provide adequate specialized shelters for male victims or those outside of the capital.

RECOMMENDATIONS FOR CHILE

Increase efforts to penalize traffickers with dissuasive sentences proportionate to the severity of the crime; investigate, prosecute, and convict all forms of human trafficking, including internal child sex trafficking, under article 411 of the penal code; expand access to specialized shelters for victims, including male victims and victims outside the capital; increase training on application of article 411 for judges and prosecutors; strengthen law enforcement's capacity to respond to trafficking victims, including by providing interpretation services when needed; increase reintegration services and mental health services available to victims; increase legal representation to victims who wish to seek restitution; develop guidelines for officials to screen for trafficking indicators for children involved in illicit activities, and to ensure no potential trafficking victims are penalized for crimes committed during their trafficking situation; and make efforts to reduce the demand for commercial sex and forced labor.

PROSECUTION

The government maintained prosecution efforts. Article 411 of the penal code criminalized sex and labor trafficking, prescribing penalties ranging from five years and one day to 15 years imprisonment, plus fines ranging from \$4,000 to \$8,000. 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 child sex trafficking, but penalties for this crime ranged from three to five years imprisonment, which were significantly lower than the penalties prescribed under the anti-trafficking law. In practice, judges frequently suspended or commuted sentences of individuals convicted of human trafficking, and to a lesser extent, other serious crimes. Anti-trafficking police units opened 21 new investigations in 2017 (13 for sex trafficking and eight for labor trafficking), compared with 23 cases in 2016 (four for sex trafficking and 19 for labor trafficking). Authorities prosecuted 17 formal cases (14 under article 367 and three under article 411, compared with 109 total prosecutions in 2016 (103 under article 367 and six under article 411). The drop in formal prosecutions was largely due to the government changing their reporting methods during this reporting period. The government convicted 29 traffickers (26 under article 367 and three under article 411, two for sex trafficking and one for labor trafficking), compared with eight convictions (three under article 367 and five under article 411) in 2016. However, only 15 convicted traffickers ultimately spent time in prison; of those only five served at least one year in prison. None of the traffickers convicted under article 411 were sentenced to terms of incarceration, an inadequate penalty given the severity of the crime. Half of the traffickers convicted under article 367 received prison terms ranging from 323 days to three years, which were below the penalty prescribed by law and were inadequate given the severity of the crime. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking offenses. Chilean courts denied a foreign government’s request to extradite two suspected traffickers from Chile; the two suspects were convicted under article 411 and sentenced to intensive probation. The government’s interagency task force on trafficking (MITP), in collaboration with the prosecutor’s office, began development of a system to better monitor any potential participation of government officials in trafficking situations.

The government provided specialized training on trafficking—including training on the anti-trafficking law—to more than 300 officials in 2017, including law enforcement, prosecutors, and justice officials. The public prosecutor’s office, which is independent of the executive branch, maintained an active anti-trafficking working group that provided guidelines for investigating trafficking cases and maintained a trafficking coordinator in each regional office. The human trafficking coordinator notified and coordinated new cases with specialized units at the national prosecutor’s office to ensure assignment of prosecutors with trafficking experience or experience prosecuting other complex or transnational crimes. Authorities continued reporting a lack of specialized funding for trafficking efforts remained a concern; it limited access to qualified translators and interpretation services for investigations involving foreign victims and specialized legal representation for victims, particularly for those seeking restitution via civil lawsuits. The government cooperated with five foreign governments on 16 separate trafficking cases and reached agreement with Bolivia to exchange trafficking law enforcement best practices and data.

PROTECTION

The government increased victim protection efforts but identified fewer victims for the second consecutive year. MITP identified 21 trafficking victims during the year (17 women and four men, 11 for labor trafficking, and 10 for sex trafficking), compared with 23 trafficking victims in 2016 and 65 in 2015. All but one victim were foreign. The MITP’s protocol on victim assistance, developed in 2016, provided assistance to all 21 victims. The services provided by government agencies included safe housing, health services, psychological services, legal assistance, employment assistance, and regularization of migratory status. Provision of victim services remained uneven across the country and NGOs reported funding was inadequate to provide necessary services, especially shelter. The National Service for Women and Gender Equality allocated 133 million Chilean pesos (\$216,530) to fund the NGO-operated shelter for women victims of trafficking, smuggled women, and their children, an increase from 92.2 million pesos (\$150,110). The shelter facilitated health, immigration, and employment services. In 2017, the shelter housed 10 women (six sex trafficking, three labor trafficking, and one child victim), including four foreigners. The shelter was at full occupancy and all other victims were referred to non-specialized shelters for victims of domestic abuse. The government did not fund most NGOs that provide victim assistance. The National Service for Minors (SENAME) provided services to child sex trafficking victims through its national network of 18 NGO-operated programs—opening one additional program during the reporting period—for children, including boys, subjected to commercial sexual exploitation. SENAME assisted 1,350 children in 2017, compared with 1,341 in 2016; authorities reported 493 of those children assisted were new in 2017. SENAME increased funding to 2.95 billion Chilean pesos (\$4.8 million) in 2017, compared with 2.717 billion Chilean pesos (\$4.4 million) in 2016. There were no shelters for adult male victims or victims outside the capital. The Social Action Program of the Ministry of Interior had a separate fund to assist vulnerable migrants that can be used for trafficking victim services.

In 2017, MITP’s interagency group published a comprehensive referral guide for all agencies involved in the group to highlight social services and programs offered for victims. Law enforcement officials lacked guidelines for dealing with potential trafficking victims detained or placed in protective custody for alleged criminal acts, such as children involved in illegal activities. Reintegration services such as education and job placement assistance were insufficient, and officials reported access to quality mental health services was expensive and limited. The government increased training efforts outside the capital and maintained robust efforts to train first responders, including health workers, public officials, and victims. Authorities provided training on victim assistance and identification to more than 450 government officials, including labor inspectors, SENAME staff, border officials, and first responders, and collaborated with an international organization on training for health workers on victim identification. The Department of Migration continued to provide no-fee visas for foreign trafficking victims and issued nine in 2017. The visa is valid for six months, renewable for up to two years if the victim reports the crime to the prosecutor’s office. Foreign victims received

the same victim services and methods of participation in court—such as teleconference and video testimony—as Chilean victims. The government did not report granting any victims restitution through civil or criminal cases in 2017.

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 government created a specific line item budget, for 102.6 million Chilean pesos (\$167,040), for MITP’s continued implementation of the 2015-2018 national action plan, primarily aimed at victim assistance and protection. While there was improvement in interagency cross-referencing and sharing of data, more robust coordination was needed.

A law enacted in 2016 strengthened protections for domestic workers, including by requiring registration of contracts, setting limits on weekly hours, and authorizing labor inspectors to enter employers’ homes, with their permission, or to require their appearance at a labor inspection office. The government reported that no victims were identified as a result of the inspections conducted. The government conducted multiple awareness campaigns and distributed materials, including brochures, at various public venues and border crossing regions. The government monitored immigration patterns in coordination with international organizations, holding a seminar for MITP members on the relationship between international migration and vulnerability to trafficking, and collaborated with a foreign government’s police officials to educate foreign immigrants within Chile on their rights and potential vulnerability to trafficking. The government did not operate an anti-trafficking hotline, but potential victims of trafficking were encouraged to use hotlines from multiple agencies within MITP. The government did not report efforts to reduce the demand for forced labor or commercial sex. Authorities provided anti-trafficking training to Chilean troops prior to their deployment abroad for international peacekeeping missions.

TRAFFICKING PROFILE

As reported over the past five years, Chile is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Chilean women and children are exploited in sex trafficking within the country, as are women and girls from other Latin American countries and Asia. Some traffickers may recruit children staying in child protection centers. Men, women, and children—primarily from other Latin American countries, as well as Asia—are exploited in forced labor in Chile in mining; agriculture; construction; street vending; the hospitality, restaurant, and garment sectors; and domestic service. Chinese and Haitian immigrants may be vulnerable to sex trafficking and forced labor, and Korean women are subjected 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. Chilean men are subjected to labor trafficking in Peru and

Chilean women are subjected to sex trafficking in Argentina, as well as other countries. Brothels in small towns are often frequented by police officers, dissuading potential trafficking victims from reporting exploitation.

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