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2019 Trafficking in Persons Report: Poland

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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. These efforts included sentencing more convicted traffickers to prison without suspending their sentences and increasing coordination among prosecutors, border guards, and police through a prosecutorial review mechanism. However, these efforts were not serious and sustained compared to the efforts during the previous reporting period. The government liquidated its high-level interagency coordination body and replaced it with an auxiliary body subordinate to the Minister of the Interior. Government efforts to identify and protect child victims remained inadequate. The government continued to make minimal efforts to address forced labor, and courts failed to adequately hold labor traffickers accountable in the reporting period despite NGOs serving approximately 520 victims of forced labor in the past five years. Funding for victim services remained relatively stagnant for six years, which continued to constrain service provision despite increasing need. Therefore Poland was downgraded to Tier 2.

PRIORITIZED RECOMMENDATIONS

Vigorously investigate and prosecute trafficking crimes, particularly forced labor cases, and increase training for law enforcement and prosecutors on evidence collection. • 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. • Sentence convicted traffickers to penalties proportionate with the severity of the crime, and increase training for prosecutors and judges on the importance of prosecuting under the anti-trafficking statute, the severity of the crime, and a trauma-informed, victim-centered approach to conducting trial. • Appoint trauma-informed officials to conduct child victim witness interviews in a child-friendly manner. • Create specialized prosecution units for trafficking crimes. • Improve training and efforts to identify victims proactively, particularly among unaccompanied children, migrants, and children exploited in commercial sex. • Create and widely distribute resources notifying foreign workers of their rights, responsibilities, and victim service providers. • Increase referrals of victims to services. • Enhance training for labor inspectors on trafficking indicators so victims are identified, and instruct labor inspectors to always use independent interpreters when interviewing workers. • Facilitate victims' access to compensation by encouraging prosecutors to request restitution during criminal cases.

PROSECUTION

The government decreased 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 old criminal code, which prosecutors used in cases that started when Article 253 was in effect and the first instance conviction was under Article 253. Article 253 of the old 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, did not disaggregate sex and labor trafficking data, and only considered convictions and sentences issued after appeals to be final. The national police and the border guard initiated trafficking investigations. In cases that merited prosecution, law enforcement authorities transferred investigations to prosecutors, who initiated their own investigations of the same cases. Law enforcement authorities initiated 33 investigations under Article 189a in 2018 (27 in 2017). Prosecutors initiated 79 investigations of cases referred by police and border guard; the government did not report how many involved forced labor as it had reported in previous years (34 of 135 involved forced labor in 2017 and 12 of 45 in 2016). In 2018, there were 47 prosecutions under Article 189a (47 in 2017); the government did not report the number of prosecutions under Article 203 or Article 204.3. The vast majority of prosecutions were for sex trafficking crimes. First-level courts issued a total of 33 convictions (30 in 2017), which were subject to appeal—17 convictions under Article 189a (six in 2017, 33 in 2016, and 36 in 2015); 16 convictions under Article 203 (24 in 2017); the government did not track first instance convictions under Article 204.3. In 2017, the most recent year for which post-appeal judgments were available, judges issued a total of 42 final convictions (58 in 2015 and 58 in 2016)—24 final convictions under Articles 189a and 253 of the old criminal code (34 in 2016 and 30 in 2015); 11 final convictions under Article 203 (17 in 2016 and 16 in 2015); and seven final convictions under Article 204.3 (seven in 2016 and 12 in 2015). The government did not report whether courts achieved any final convictions for forced labor in the reporting period; media sources did not report any final forced labor convictions. Forty-three percent of convicted traffickers served less than one year of prison time. Sixty percent of sentences were for two years or less (55 percent in 2016, 58 percent in 2015 and 78 percent in 2014); two for one year; 12 for one to two years; eight for two years; three traffickers received a fine, community service, and wage penalties, respectively, instead of prison sentences. Authorities suspended 36 percent of prison sentences for trafficking convictions (43 percent in 2016), including nine sentences for one to two years and six for two years. In addition to imprisonment, 17 traffickers received a fine, 11 of which were suspended.

Authorities provided training on victim identification to 57 police, 18 border guards, 164 consular officers (154 in 2017), 29 labor inspectors (30 in 2017 and 99 in 2016),

43 employees of crisis intervention centers (94 in 2017 and 79 in 2016), and 20 officials who interview asylum-seekers (13 in 2017). The border guard organized training for 835 officers on standard operating procedures for assisting child victims of trafficking (410 in 2017 and 2,065 in 2016). Police and prosecutors, however, acknowledged authorities lacked the expertise to identify forced labor victims and child victims. Law enforcement had a list of indicators for interviewing potential victims; sample questions focused on freedom of movement and did not take psychological coercion or subtle forms of force into consideration. Authorities held one trafficking training session for 61 prosecutors and judges (111 in 2017 and 236 in 2016).

The National Prosecutor Office introduced a formal mechanism in 2018 to improve coordination among prosecutors, the border guard, and police, whereby law enforcement could refer discontinued or dismissed trafficking investigations and prosecutions for review. The prosecutor responsible for coordinating trafficking investigations within the National Prosecutor Office could review decisions made by lower-level prosecutors, including whether to discontinue or dismiss cases, and make assessments of the accuracy of these decisions. He served as a consultant on final resort appeals to the Supreme Court in cases of inadequate punishment. In 2018, the police referred eight cases to the National Prosecutor Office, and, in all eight cases, the office agreed with the police that the cases involved trafficking. The National Prosecutor Office sent the cases back to regional prosecutors' offices, who were obliged to look into the investigations and respond to the National Prosecutor Office with a planned course of action; in three cases authorities reopened investigations and in five cases authorities expanded charges to include human trafficking. The border guard did not use this review mechanism in 2018.

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), requested extradition of a Polish citizen from the Netherlands, and extradited two Polish nationals to the UK on trafficking-related charges. Despite NGOs assisting approximately 520 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 this type of crime; there was no clear definition of what constitutes

forced labor in the Polish criminal code; and prosecutors and judges often lacked expertise in labor trafficking cases. Observers reported prosecutors and judges lacked familiarity with a victim-centered approach to trial, the impact of trauma on victims, and the severity and complexity of the crime. One ongoing prosecutorial investigation involved suspected forced labor of 107 North Korean potential victims in the agricultural sector with trafficking indicators, such as workers paying money to middlemen in advance to obtain employment; none of the workers were referred to services.

PROTECTION

The government maintained insufficient protection measures. Police and border guard identified 162 potential trafficking victims (155 in 2017 and 144 in 2016) and referred 47 to care facilities (21 in 2017); the government reported all victims were offered services but chose not to accept them. The National Intervention-Consultation Center for Victims of Trafficking (KCIK) provided assistance to 168 potential victims, three of which were child victims, compared with 169 in 2017, 200 in 2016, and 229 in 2015. Of these, 109 were victims of forced labor; 41 of sexual exploitation and abuse; four domestic slavery; four forced begging; three forced criminality; two combined sexual exploitation and domestic servitude; two combined forced labor and sexual exploitation; one degrading treatment; one forced begging and sexual exploitation; and one forced marriage. KCIK offered adult and minor victims medical and psychological care, legal counseling, shelter referrals (or in the case of children, referrals to orphanages and foster care), welfare support, and reintegration services. Experts expressed concern changes may be made to KCIK that would impact funding levels. KCIK included two shelters for adult female victims and one apartment with capacity to accommodate three adult male victims. The shelters and apartment housed a combined total of 38 victims in 2018, (46 in 2017). KCIK arranged accommodations for an additional 48 victims, using crisis centers, hotels, and hostels for this purpose (61 in 2017). Victims also could receive comprehensive assistance (social, medical, psychological, legal) in 174 crisis intervention centers operated and funded by local governments; the government did not report whether staff at these centers were trained in assisting trafficking victims or the number of trafficking victims served by these non-specialized centers. In addition to KCIK services, 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; 24 non-EEA national victims received assistance through the welfare system in 2017, the most recent year for which statistics were available. EEA victims had access to the full scope of welfare benefits offered to Polish citizens if they could prove habitual residency; NGOs reported victims from Romania and Bulgaria had problems proving habitual residency. The government did not track whether EEA nationals received social welfare assistance. Five non-EEA national victims received a certificate from law enforcement, which was the basis for legalizing their stay for the reflection period and accessing social services. The government did not fund specialized care or accommodation for child victims, who typically were placed in orphanages or with foster families. Observers reported orphanages often were not well prepared to assist child victims of trafficking. Law enforcement referred one child victim to KCIK in 2018 (none in 2017). The border guard reported it had a formal procedure for screening unaccompanied children for trafficking; the border guard did not identify any unaccompanied child victims in 2017 or 2018. NGOs and academics reported there was no clear system of assistance to meet the needs of unaccompanied children.

In 2018, the government allocated 1.1 million zloty (\$293,100) to two NGOs that run KCIK, of which 105,000 zloty (\$27,980) went to operate the hotline. Funding for victim services remained relatively stagnant for the sixth year; the last increase was for 10 percent in 2015. Experts said limited government funding for victim assistance constrained service provision and shelter capacity for male victims was insufficient with the increasing number of male victims of labor trafficking. Civil society infrastructure to protect and assist victims was limited, especially outside of Warsaw and Katowice. The government allocated 84,000 zloty (\$22,380) to train welfare assistance personnel on assisting trafficking victims and witnesses, compared with 79,800 zloty (\$21,260) in 2017.

The government closed its witness protection program for trafficking victims because KCIK incorporated all relevant services offered within the program, and cooperated with police. 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; five victims used this three-month reflection period (12 in 2017,

23 in 2016, and 33 in 2015). 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 know how many victims received temporary or permanent residency. The government, in cooperation with an international organization, assisted two foreign victims to return to their home countries (four in 2017). Polish law permitted victims to provide testimony via video or written statements; audio-video recording of testimony was obligatory for victims younger than 15 years of age and for victims of sexual crimes, including sex trafficking. The law imposed a limit of one recorded interview for some victims at the trial stage. Experts noted law enforcements' and prosecutors' interviewing 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. The labor inspectorate inspected all companies employing North Korean workers, but did not report finding actionable evidence to justify recommending formal law enforcement investigations, despite media reports showing indicators of trafficking. Officials acknowledged that inspections usually were confined to paperwork and investigators typically relied on interpreters provided by employers. Labor inspectors did not identify any victims in 2018; police and labor inspectors noted challenges in determining whether a given offense constituted a violation of workers' rights or forced labor. Prosecutors rarely requested compensation for victims and courts did not order any traffickers to pay restitution in post-appellate cases.

PREVENTION

The government decreased prevention efforts. The government liquidated 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 of efforts to combat trafficking. Before this took place, the inter-ministerial team approved the implementation report for the 2016-2018 action plan, but it still needed additional approvals. In 2018, the government allocated 135,000 zloty (\$35,970) for the implementation of the 2016-2018 action plan, on par with 2017 funding, but a 43 percent decrease from 235,000 zloty (\$62,620) allocated in

2016. The interior ministry approved an assessment of the government's anti-trafficking activities in June 2018. The MOI established a new auxiliary body, including interagency representatives but subordinate to the Minister of Interior, in February 2019, tasked with evaluating the implementation of anti-trafficking projects, monitoring national action plan implementation, and preparing annual reports. NGOs 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. During the reporting period, provincial-level interagency anti-trafficking teams in all 16 regions conducted 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 sponsored information campaigns on trafficking, several of which targeted students, at-risk Polish communities, and Poles seeking work abroad, but efforts to reduce vulnerability among migrant workers were weak. The ministry of interior's web portal continued to operate, offering information on prevention, the system of victim support, and relevant statistics and publications. The government lacked a central mechanism to cross-reference and consolidate trafficking-related statistics, hindering officials' ability to assess the scope of trafficking in Poland and the efficacy of law enforcement efforts. A government-funded NGO operated a hotline (10 hours per day on weekdays and 24 hours per day on weekends) for trafficking victims and witnesses, which received approximately 9,000 calls during the reporting period; 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 know whether any entities were banned. Labor inspectors conducted 655 inspections of job recruitment agencies (735 in 2017), but did not identify any cases of trafficking or any agencies presenting fraudulent job offers. The National Labor Inspector identified 33 job recruiting agencies operating illegally (35 in 2017) and removed them from the official registry of legally operating recruitment agencies. The National Labor Inspector 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. The government did not make efforts to reduce the demand

for commercial sex acts during the reporting period. The government did not provide anti-trafficking training for its diplomats posted abroad.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Poland, and traffickers exploit victims from Poland abroad. Labor trafficking is increasing in Poland; victims originate from Europe, Asia, and Africa. There is an increasing vulnerability to labor trafficking among Poland's growing Ukrainian, Belarusian, Filipino, and Vietnamese migrant populations, particularly in restaurants and construction, and North Korean workers dispatched by the DPRK government, particularly in shipyards, construction, and agriculture. Traffickers recruit children, particularly Roma, for forced begging in Poland. Traffickers subject men and women from Poland to forced labor in Europe, primarily Western and Northern Europe, in particular the UK and Sweden. There is an increasing number of Polish victims of forced labor for construction in the UK. Traffickers subject women and children from Poland to sex trafficking within the country and also in other European countries. Traffickers subject women and children from Eastern Europe, particularly Bulgaria, Romania, and Ukraine, to sex trafficking in Poland. A growing number of Vietnamese victims transit Poland en route to Western Europe after traffickers subject them to labor trafficking in Russia.

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