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2023 Trafficking in Persons Report: Austria

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, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore Austria remained on Tier 1. These efforts included identifying and assisting more victims, increasing identification of trafficking among domestic workers, and increasing monitoring of social media platforms to identify traffickers and victims. Additionally, the government increased funding for specialized anti-trafficking NGOs to provide shelter, services, and legal support to victims. Moreover, courts awarded restitution to more victims and the Ministry of Interior (MOI) issued a directive mandating a 30-day recovery and reflection period for victims. Finally, the government created a new working group under the national anti-trafficking task force to review and improve reporting, monitoring, and evaluation of the government's anti-trafficking efforts and undertook several efforts to prevent trafficking among refugees fleeing Russia's war against Ukraine and to protect potential victims. Although the government meets the minimum standards, the government investigated fewer trafficking cases and gaps remained in the identification of labor trafficking victims and of victims among vulnerable populations, particularly children. The government did not maintain a standardized law enforcement database on investigations, prosecutions, convictions, and sentencing.

PRIORITIZED RECOMMENDATIONS:

- Increase efforts to vigorously investigate and prosecute alleged traffickers and seek adequate penalties for convicted traffickers involving, as appropriate, significant prison terms, consistent with those imposed for other serious crimes such as rape.

- Increase efforts to identify labor trafficking victims, such as by expanding training to help front-line responders recognize indicators of labor trafficking, including subtle means of fraud or coercion.
- Strengthen the protection system for children, including by ensuring each unaccompanied child is quickly appointed a guardian, to prevent trafficking among this vulnerable population.
- Increase efforts to identify victims among vulnerable groups – including children, asylum-seekers, and seasonal migrant workers – and ensure all victims have access to services.
- Strengthen efforts to guarantee effective access to compensation for victims, including by enforcing court compensation orders.
- Ensure victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked.
- Standardize the government law enforcement database on investigations, prosecution, 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 maintained 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. Article 104 also criminalized slavery, with penalties ranging from 10 to 20 years' imprisonment. 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 national to engage in prostitution by force, fraud, or coercion. The government conducted 59 investigations involving 88 suspects under Article 104a, compared with 61 investigations involving at least 94 suspects in 2021. The government also conducted four investigations involving four suspects under Article 104 (slavery). In June 2022, police arrested two suspected traffickers for operating a large-scale labor trafficking scheme that involved 233 potential victims from Iraq. The government initiated prosecutions under Article 104a against seven defendants and continued two ongoing prosecutions, compared with 10 total prosecutions in 2021. Courts convicted four traffickers under Article 104a, compared with five in 2021. The government prosecuted nine defendants (16 in 2021) and convicted six (seven in 2021) under Article 217, but it did not specify how many involved trafficking crimes. In contrast to the Austrian court register, the government statistics agency 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 on prison sentences published by the government statistics agency was from 2021, when courts sentenced two traffickers under Article 104a to terms of imprisonment ranging from one to three years. Additionally, under Article 217, courts sentenced five traffickers to terms of imprisonment, four of which were partially suspended.

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. In 2022, the government increased the 2023 national budget for courts by 11.5 percent; the additional funds were allocated, among other things, for victim protection and safeguarding procedural rights of victims. The Organization for Security and Cooperation in Europe (OSCE) expressed concern 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 OSCE noted this confusion could lead to gaps in data collection, including on victim identification. The government continued to jointly investigate cases with other government or law enforcement entities. In 2022, Austria participated in all three European Multidisciplinary Platform against Criminal Threats (EMPACT) Joint Action Days focused on human trafficking and was a co-leader of EMPACT's human trafficking priority area. In one Europol-facilitated investigation, Austrian authorities worked with law enforcement from Germany, Hungary, and Romania to arrest four suspected traffickers, including one in Austria, for exploiting Hungarian and Romanian victims in Austria and Germany for forced begging.

The government, assisted by counter-trafficking NGOs, provided specialized training to authorities, including law enforcement, border control, labor inspectors, asylum authorities, and diplomatic, consular, and judicial personnel. Law enforcement officials received mandatory trafficking training as part of basic training and had opportunities for additional training and seminars throughout their careers. The FCO continued 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. Law enforcement agencies increased efforts to monitor social media platforms to identify traffickers and victims. In 2022, the FCO began employing officers able to operate "web crawlers" to identify suspicious advertisements or social media posts for further investigation. National and provincial authorities cooperated with authorities from other countries, including neighboring EU countries, to investigate and prosecute trafficking cases. Following Russia's full-scale invasion of Ukraine in February 2022, the FCO created a task force in coordination with Europol to strengthen cross-border cooperation with

the 12 participating countries, EUROJUST, and UNODC on trafficking cases involving refugees from Ukraine. In 2022, the government requested mutual legal assistance in nine cases and executed six requests for mutual legal assistance from foreign officials. Authorities reported no new cases of forced labor in foreign diplomatic households; the government reported a case from 2019 was suspended because of the diplomatic immunity of the alleged trafficker. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes.

PROTECTION

The government increased protection efforts. The government recognized and provided assistance to 450 victims in 2022, compared with 395 in 2021. One government-funded NGO reported it provided services to 384 female victims in 2022 (334 in 2021), of whom police referred 112 women. 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 66 victims in 2022 (61 in 2021). Police referred 19 of these victims to this NGO, while asylum officials referred 13 men. While the majority of victims were foreign nationals, the government identified two Austrian victims in 2022, compared with 42 in 2021. The majority of identified victims were exploited in sex trafficking.

Experts noted, however, the relatively low number of identified forced labor cases with foreign national victims could be attributed to authorities' failure to recognize labor trafficking indicators rather than to low prevalence. Observers criticized the government's lack of focus on combating labor trafficking, emphasized the need for a stronger mandate for labor inspectors, and stressed the importance of creating incentives for police in the Ministry of Finance (MOF) to focus more on identifying trafficking. Authorities continued to follow established comprehensive guidelines on victim identification and referral procedures and, in 2022, the government updated trainings, manuals, and checklists for asylum officials, reception and support authorities, and repatriation counselors to reference the referral procedures. Civil society reported the NRM's expansion, alongside additional trainings, resulted in more referrals from police and other government authorities. Authorities used guidelines and checklists to screen potential victims for trafficking indicators and referred identified victims to NGOs for assistance. The guidelines highlighted the particular vulnerability of certain groups and provided targeted strategies for identifying and supporting potential victims in these communities. The government maintained a separate NRM to identify and refer child trafficking victims.

The government allocated €2.13 million (\$2.28 million) to specialized anti-trafficking NGOs to provide shelter, services, and legal support to victims in 2022, a significant increase from €1.47 million (\$1.57 million) in 2021.

Government funding accounted for most of the budgets for these

organizations. 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. Foreign victims had the same access to services as domestic victims. In 2022, one government-funded NGO reported it increased the availability of secure, independent living accommodations and expanded support for women with disabilities and transgender women and girls. The city of Vienna funded a government-run center for unaccompanied migrant children, 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 2022. The government's anti-trafficking task force published annual guidelines on child victim identification and continued distributing brochures on children's rights. Media reported 7,713 out of 9,347 (82.5 percent) children who applied for asylum in Austria from January to September 2022 went missing – a similar percentage to 2021 (78 percent); observers noted these missing children were highly vulnerable to trafficking and recommended the government assign a guardian to unaccompanied children immediately upon identification. At the end of the reporting period, the National Anti-Trafficking Task Force's proposal for a national center for child trafficking victims remained under budgetary review. 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, diplomatic, and consular personnel. Training and written guidelines for asylum officials and other authorities who may come into contact with asylum-seekers highlighted the vulnerability to trafficking of certain populations, including the LGBTQI+ community, unaccompanied children, and individuals with disabilities.

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 recovery and reflection period to decide whether to assist in the prosecution of traffickers; some NGOs reported concerns about inconsistencies in the reflection period and noted victims were not always informed of this right. In April 2022, the MOI issued a directive mandating the 30-day reflection period. Victims' access to services was not dependent on their willingness to participate in the criminal process. Ministry of Justice-funded NGOs provided psycho-social and legal assistance during criminal proceedings (under article 104a) to 144 trafficking victims in 2022, compared with approximately 110 in 2021. The provision of legal aid was constrained by gaps in the identification of victims; experts noted cases in which victims were not properly identified and therefore unable to access specialized legal assistance. 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 17 residence permits to trafficking victims in 2022, compared with nine new permits and 13 extensions in 2021. Victims who chose to return to their country of origin received repatriation assistance from government-funded NGOs. A government-funded NGO collaborated with international experts to produce a written manual of quality standards and risk assessment considerations to guide the voluntary return process.

Victims could file civil suits against traffickers for damages and compensation, even in the absence of a criminal prosecution, and pursue civil suits in the event of an acquittal in a criminal case. Courts could award restitution upon criminal conviction; in 2022, courts awarded restitution to 13 victims in trafficking cases. In previous years, experts expressed concern that access to compensation and restitution was rare in trafficking cases; furthermore, compensation awards were unevenly enforced, as it was the victim's responsibility to enforce the order through a claim with legal authorities. NGOs also documented cases where compensation was stalled by the return of the victim to their home country. The government continued to include the topic of victim compensation in its trainings and seminars for prosecutors and judges.

Authorities forgave administrative fines for illegal commercial sex or immigration violations if the individual was found to be a trafficking victim. However, authorities may have detained unidentified victims due to gaps in victim identification. Observers noted courts did not consistently apply the non-punishment provision for identified victims and, in 2020, GRETA cited the lack of a specific legal provision on the non-punishment of victims of trafficking. Experts noted gaps in the government's referral process for suspected cases of exploitation among asylum-seekers; the government may have sent some migrants who showed signs of trafficking to other countries in the EU without receiving services due to the government's enforcement of EU regulations on asylum-seekers.

PREVENTION

The government increased efforts to prevent trafficking. The National Anti-Trafficking Task Force led the government's efforts and included representatives from federal ministries, provincial governments, NGOs, business and labor interest groups, and civil society. The task force met four times and included working groups to address issues of particular concern, including child trafficking, labor exploitation, and non-punishment of victims. In 2022, the task force created a new working group to review and improve reporting, monitoring, and evaluation of the government's anti-trafficking efforts. The labor exploitation working group completed an informational leaflet for potential childcare workers to raise awareness about human trafficking risks; the government translated the leaflet into eight languages, published it on the Ministry of

Foreign Affairs (MFA) website, and distributed it at Austrian embassies and consulates worldwide. Civil society representatives who were not official members of the task force were periodically invited to attend task force meetings, and regional human rights coordinators covering anti-trafficking issues were regularly represented on the task force. In 2022, the task force intensified its outreach to, and coordination with, authorities in Austria's nine provinces through training sessions, roundtable discussions, and best practice exchanges. The government continued to implement the 2021-2023 national action plan. 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 hybrid virtual and in-person conference for several hundred participants from civil society, international organizations, and members of the diplomatic and consular corps. The government conducted a prevention campaign targeting refugees fleeing Ukraine; the government distributed posters in English and Ukrainian with the trafficking hotline number at transit points and reception centers. The police also hired Ukrainian speakers to screen emergency calls and forward potential trafficking cases to the trafficking hotline. The FCO coordinated with provincial law enforcement to conduct checks at railway stations and welcome centers and establish and maintain contact with Ukrainian refugees in their accommodations and workplaces to detect possible trafficking indicators. Moreover, in April 2022, the FCO organized an in-person workshop with law enforcement counterparts from Ukraine and other eastern European countries to discuss Ukrainian refugees' trafficking vulnerabilities and preventative measures. In September 2022, the FCO convened a roundtable of Austrian victim protection NGOs working with Ukrainian refugees to discuss trends in the refugee population to better identify trafficking victims. The government 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 government and government-funded NGOs continued outreach activities to migrant workers, including undocumented workers, and trained labor inspectors on trafficking indicators. In 2022, the government allocated funding for an NGO to increase targeted efforts to counter exploitation of domestic workers; the NGO collaborated with a U.S.-based organization to craft language to educate domestic workers about their rights and, in April 2022, launched a two-year project with civil society partners in Slovakia and Romania to improve working conditions and safe labor migration of Romanians and Slovaks who work as 24-hour caregivers in Austria. Observers noted the labor inspectorate's mandate was limited to addressing health and safety conditions, which they claimed hindered inspectors' ability to respond to other exploitative work conditions; however, Austrian authorities stated human trafficking and labor exploitation were required components of inspectors' basic training and

inspectors were required to report suspected cases to police. In February 2023, the MOF organized a roundtable on human trafficking and illicit financial flows for government officials and the private sector, focusing on how the Austrian financial sector can improve its detection and reporting of potential trafficking-related activity. Austrian embassies and consulates in source countries informed visa applicants of the trafficking risks. The FCO operated a 24-hour trafficking hotline with interpretation available in multiple languages. The hotline received approximately 750 calls and emails in 2022, compared with 650 in 2021; the government reported these calls led to numerous investigations and the identification and referral of victims.

The MFA continued efforts to prevent trafficking among employees of foreign diplomatic households by holding events to inform them of their rights and requiring them to obtain identification cards in person. The government continued partnering with neighboring governments and regional organizations to combat transnational trafficking; the FCO continued programs with the People's Republic of China (PRC) and Nigeria to combat cross-border trafficking and improve and expand joint investigations; and an exchange program with Romanian police to increase coordination on migrant smuggling and human trafficking cases, with a focus on cases involving Romanian citizens in forced begging. The government provided funding for anti-trafficking projects in the EU and Africa, as well as Cambodia and Nicaragua. The government maintained efforts to reduce the demand for commercial sex acts by continuing to distribute public awareness materials on the possibility of sex trafficking in commercial sex. Additionally, the government reported individuals can be charged with the "violation of sexual self-determination" offense, which makes it a crime to solicit an individual for sex when consent is attained by intimidation or by taking advantage of an intimidating or exploitative situation, including sex trafficking. The government also continued efforts to reduce the demand for participation in international sex tourism by its citizens by training law enforcement and raising awareness among travel agencies and the public. The government continued to enforce public procurement guidelines for the elimination of labor trafficking in the purchase of goods and services. In May 2022, the government completed a study on the effects of the COVID-19 pandemic on working conditions in global supply chains; the report underscored the pandemic intensified vulnerability to labor exploitation in the global supply chain, particularly for migrant workers in agriculture and nursing care. The government was actively involved in efforts at the EU- and UN-level to establish binding human rights due diligence regulations, including explicit bans on forced labor.

TRAFFICKING PROFILE:

As reported over the past five years, human traffickers exploit predominantly foreign victims in Austria, although traffickers also exploit domestic victims. Traffickers exploit women and girls from Austria, Eastern Europe, Southeast Asia, the PRC, Nigeria, and South America in sex trafficking. In 2022, Nigerian women made up the largest group of trafficking victims. About a third of all victims came from EU member states – mainly Romania, Bulgaria, Hungary, and Slovakia. An increasing number of men, transgender, and transsexual persons are identified as sex trafficking victims. Traffickers exploit women from Nigeria and the PRC in sex trafficking in massage parlors and brothels; many of the Nigerian victims arrive in Austria as asylum-seekers. 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. Traffickers increasingly use online recruitment and advertisements to lure victims, a phenomenon accelerated by the pandemic. Most traffickers are Austrian men or men from the same country as their victim; many are members of international organized crime groups.

Observers note labor trafficking is increasing. Traffickers exploit men and women from Eastern Europe, Southeast Asia, and the PRC in forced labor, primarily in restaurants, construction, agriculture, health care, transportation, and domestic service, including in diplomatic households.

Seasonal migrant workers are especially vulnerable to labor trafficking, particularly during the harvest seasons. Traffickers exploit children, persons with physical and intellectual disabilities, and Roma in forced begging. Children, especially Romani girls, are also exploited in forced criminality. Traffickers increasingly exploit victims for criminal purposes, including telephone and cyber scams and selling drugs. Traffickers use Austria as a transit point to move victims to other European countries.

Unaccompanied children, many of whom go missing each year, are vulnerable to trafficking. Approximately 200,000 refugees from Ukraine – predominantly women and children – entered Austria in 2022, tens of thousands of whom have likely remained in Austria and are vulnerable to trafficking.

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