

USDOS – US Department of State

2022 Trafficking in Persons Report: Belgium

Belgium (Tier 1)

The Government of Belgium 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 on its anti-trafficking capacity; therefore Belgium remained on Tier 1. These efforts included increasing investigations, more than doubling the number of prosecutions, and releasing a national action plan (NAP). The government identified significantly more trafficking victims and increased funding for services. Moreover, the government funded a new residence center for unaccompanied girls who were potential trafficking victims. Although the government meets the minimum standards, courts suspended or partially-suspended the majority of convicted traffickers' sentences, which weakened deterrence, did not adequately reflect the nature of the crime, and undercut broader efforts to fight trafficking. The government also imposed several conditions on victims to access services, including participation in a criminal case, which constrained victim identification and limited crucial services for victims. The government continued to report inconsistent law enforcement data.

PRIORITIZED RECOMMENDATIONS:

- Increase efforts to convict traffickers and sentence convicted traffickers to adequate penalties, which should involve serving significant prison terms.
- Vigorously investigate and prosecute suspected traffickers and train law enforcement on increasing trends, including the use of online platforms to recruit and exploit victims.
- Train first responders on the child victim identification and referral protocol to ensure it is used effectively in practice and secure adequate funding for the provision of services for child trafficking victims.
- Ensure victims have access to the full range of services regardless of whether they choose to participate in judicial processes.
- Implement trauma-informed and victim-centered procedures during trial proceedings to minimize the risk of re-traumatization and ensure all victims, not just those under threat of physical violence, have access to witness protection services.
- Coordinate and centralize the collection of timely trafficking data across the government to effectively analyze efforts.
- Improve victims' ability to access court-ordered restitution in criminal cases and ensure victims exploited by means other than physical violence have full access to victim compensation.
- Revise the definition of human trafficking under Belgian law to more closely align with the definition in the 2000 UN TIP Protocol.

PROSECUTION

The government modestly increased law enforcement efforts. Belgium criminalized sex and labor trafficking through a 2005 amendment to the 1995 Act Containing Measures to Repress Trafficking in Persons, which prescribed penalties of one to 15 years' imprisonment and a fine for offenses involving adult victims and 10 to 20 years' imprisonment and a fine for those involving a child victim. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as kidnapping. Belgium's definition of trafficking in persons was broader than the definition in the 2000 UN TIP Protocol. Inconsistent with the definition of trafficking under international law, the law established the use of force, fraud, or coercion as aggravating factors, rather than essential elements of the crime. Additionally, Belgian law also allowed the failure of an employer to meet the prevailing wage and working conditions to constitute "exploitation," and the government included these cases in its prosecution data. GRETA

reported this overly broad definition could lead to confusion between trafficking and other criminal offenses and possible difficulties in mutual legal assistance with foreign governments that used a definition more consistent with the UN TIP Protocol.

The government did not report anti-trafficking data consistently from year to year, making it difficult to assess its law enforcement efforts. Despite recommendations from GRETA in both its 2013 and 2017 evaluation reports, the government lacked a coherent system to collect law enforcement and victim data for trafficking cases, which hindered its ability to track and evaluate its efforts. Authorities investigated 383 cases in 2021, compared with 373 cases in 2020. The government prosecuted an unknown number of defendants in 95 cases in 2021, an increase compared with an unknown number of defendants in 38 cases in 2020 and 73 cases in 2019. Authorities reported 103 convictions in 2020, the most recent year for which data was available, compared with 112 convictions in 2019. Courts sentenced 97 convicted traffickers to prison terms in 2020 (100 in 2019); however, 55 of the sentences were suspended or partially suspended (57 in 2019). Of the prison sentences issued, including those that were suspended or partially suspended, nine (19 in 2019) were for less than one year, 47 were for one to three years, 35 were for three to five years, and six were for five to 10 years. Experts attributed the high number of suspended sentences to several factors, including the law's overly broad definition of human trafficking, judges' lack of understanding of the severity of labor trafficking crimes, and application of lighter sentences for traffickers with minimal roles in an organization. The failure to sentence the majority of traffickers to significant terms of imprisonment weakened deterrence, may have undercut broader efforts to hold traffickers accountable, and did not adequately address the nature of the crime.

The government mandated trafficking trainings for judicial officials who were on the career track to become magistrates and who may eventually become judges, and trafficking was included in basic training courses for law enforcement. The government conducted a training on trafficking investigations and a training on victim identification and prosecution of trafficking cases for law enforcement and judicial authorities. A joint sex trafficking investigation with Moldovan authorities resulted in three arrests and the identification of six victims and nine potential victims. In November 2021, authorities participated in a EUROPOL operation focused on sex trafficking, forced criminality, and forced begging; the operation led to the arrest of 212 suspects, the initiation of 327 investigations, and the identification of 650 potential victims throughout the 29 participating countries. The government did not report how many, if any, arrests, investigations, or potential victims identified during these two operations occurred in Belgium or involved Belgian nationals. Authorities cooperated with foreign authorities to extradite three suspected traffickers to Belgium: two Hungarian citizens residing in Switzerland and one Indian citizen residing in Armenia. The government transferred four convicted traffickers: one to Bulgaria, one to Romania, one Thai citizen to the United States, and one Nigerian citizen to Italy. The government reported prosecuting a city council official for human trafficking for offering a homeless man shelter in a thermal spa in return for unpaid work on the property; it was unclear if force, fraud, or coercion were present in the case. The government did not report any other investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes.

PROTECTION

The government increased efforts to protect victims. The government formally identified and assisted 151 victims (including 86 victims of labor exploitation, 33 victims of sexual exploitation, and 32 victims of unspecified forms of exploitation), an increase from 91 in 2020 but similar to 159 in 2019. Due to the broad definition of labor exploitation under Belgium's anti-trafficking law, data on the identification of labor trafficking victims may have included cases that do not constitute trafficking crimes under the international law definition. Law enforcement identified the majority of victims, followed by NGOs and social services. There were also many cases of victims who self-identified. The three government-funded shelters received 1,055 referrals of victims and potential victims in 2021, compared with 820 referrals in 2020. First responders followed a national victim referral protocol to identify victims and refer them to care, and the government organized outreach activities and awareness-raising campaigns targeting frontline professionals, including hospital and social workers. The government trained immigration and asylum officers on victim identification. Observers noted that local police often struggled to identify trafficking, were overburdened by too many responsibilities, faced high rates of turnover, and lacked specialized anti-trafficking officers. Moreover, experts recommended increased training for law enforcement on the identification of trafficking on online platforms. Experts reported particular challenges in identifying child victims, in spite of a sharp increase in the number of unaccompanied migrant children entering the country in recent years. Many authorities who did not specialize in trafficking cases reportedly could not recognize trafficking indicators and confused child trafficking with other crimes such as smuggling and child abuse. Authorities sometimes failed to follow the victim referral protocol and did not properly notify child protective services when they identified an unaccompanied child victim. Gaps in identification efforts, such as with child victims, made these victims vulnerable to penalization for crimes traffickers compelled them to commit. The government reported three working groups

advised service providers on the identification of child victims, and the government began conducting a comprehensive revision of the national referral mechanism, including the referral procedures for child victims.

The government funded three specialized NGO-run shelters and allocated approximately €428,000 (\$485,260) for each shelter, compared with €419,000 (\$475,060) in 2020; the shelters also received funding from regional and local governments. NGO-run shelters provided psycho-social, medical, and legal care and were open to all adult victims regardless of gender, immigration status, or nationality. The independent Federal Migration Centre (Myria), in its capacity as the national rapporteur, provided oversight and coordination for the shelters. Authorities placed child trafficking victims in government-funded shelters for foreign unaccompanied children; children in these centers were assigned a mentor to protect their interests. A government-funded temporary residence center for unaccompanied female potential trafficking victims between the ages of 14 and 18 began operations in January 2022. The center offered shelter, legal assistance, and tailored follow-on assistance plans; the center did not require victims to participate in the investigation of a trafficker to receive support. GRETA reported the government's child safety services lacked sufficient capacity to accommodate unaccompanied child victims. In December 2021, the government reported it was only able to accommodate 16 out of 30 unaccompanied migrant children who sought shelter at a Brussels reception center, noting that the child protection system for unaccompanied children had not been overwhelmed to this degree since 2015. Shelters for unaccompanied children reported many children went missing from the shelters each year, some of whom may have been victims of trafficking; the agency responsible for these shelters reported 2,642 children went missing between 2018 and 2020, with 583 going missing in 2020 alone.

The government conditioned its victim assistance services on three criteria: victims had to break off all contact with the trafficker, agree to counseling at a specialized shelter, and assist in the prosecution of the trafficker. Identified victims were eligible for a 45-day reflection period during which they could decide whether to assist law enforcement; foreign victims who did not agree to these conditions were repatriated to their country of origin. Potential victims had access to social services during this reflection period. The government granted foreign victims who participated in investigations and prosecutions three-month residence and work permits and protective services. If a public prosecutor confirmed the individual was a trafficking victim, they could receive a six-month residence and work permit, renewable until the end of the criminal case. Victims who were not citizens of EU member states could obtain permanent residency only upon the successful conviction and sentencing of traffickers; in the absence of a conviction, authorities could grant residence permits for indefinite lengths of time to non-EU victims if authorities were able to bring formal charges against the trafficker. Victims who chose not to accept the conditions were eligible for other types of assistance, including access to temporary housing and psycho-social care, and non-EU victims could apply for humanitarian residency. Nonetheless, observers noted the conditions the government attached to victim assistance were difficult for many victims to meet, especially in the case of child victims. Few child victims received residence permits, and GRETA expressed concern that residency for non-EU child victims was contingent upon cooperation with law enforcement instead of factors relating to the best interest of the child. The government issued 202 residence permits for trafficking victims in 2021, compared with 174 in 2020.

During criminal proceedings, witness protection laws provided only those victims under physical threat of violence or living abroad options to testify via video. The law had a specific provision for child victims that allowed courts to permit video testimony. Prosecutors could seize assets of suspected traffickers during an investigation and could request restitution for victims in court through the confiscation of these assets; for the third consecutive year, the government did not report if courts granted restitution. Victims could claim compensation in local courts but often had to prove their case involved the intentional act of physical violence to receive compensation. Victims could also seek compensation through the Commission for Financial Assistance to Victims of Intentional Acts of Violence; in 2021, the commission awarded €12,500 (\$14,170) to one trafficking victim (the same amount awarded to two victims in 2020). The high costs of legal representation discouraged victim cooperation in criminal and civil proceedings. Additionally, foreign victims were only granted relief from deportation or other penalties if they assisted in the prosecution of their trafficker.

PREVENTION

The government increased efforts to prevent trafficking. The Interdepartmental Coordination Unit coordinated government-wide anti-trafficking efforts and monitored the implementation of the NAP; the government released the 2021-2025 NAP in June 2021. The Ministry of Justice (MOJ) chaired the unit, which included key government ministries and agencies, as well as representatives of the three government-funded shelters and Myria. Myria served as the secretariat for the unit and as the independent national rapporteur, and it produced its own annual report on government anti-trafficking efforts. The government held several awareness-raising events as part of a UN campaign in July 2021 and participated in an EU awareness campaign focused on combating sex trafficking. The MOJ created awareness-raising leaflets targeting the construction sector and beauty salons and

a leaflet on the “lover- boy” phenomenon. In March 2022, the government launched an online and social media campaign to raise awareness among refugees fleeing Russia’s full-scale invasion of Ukraine about the risk of trafficking and to inform them of their rights in Belgium. The three government-funded NGOs maintained a hotline available 24/7; the government did not report if any calls led to the identification of trafficking victims.

The Labor Inspectorate conducted inspections throughout the reporting period, but the government did not report the number of inspections. Labor inspectors referred 95 potential victims to authorities for further review; the government did not report if any of these referrals led to the identification of victims. The government maintained an online toolbox to provide information for businesses on how to prevent forced labor in their organizations and supply chains. Some migrant workers were not allowed to change employers without obtaining authorization from the government, increasing their vulnerability to trafficking. The government continued a widely used program that subsidized the wages of domestic workers and criminalized exploitative practices, such as the confiscation of passports and contract switching. The government maintained a system to prevent the exploitation of domestic employees of foreign diplomats by placing awareness-raising flyers in the consular sections of Belgian embassies and consulates abroad. Myria highlighted the particular vulnerability to trafficking of diplomatic domestic staff and recommended that the government systematically interview these workers when issuing or renewing special identity cards to prevent or detect possible abuses. The government did not make efforts to reduce the demand for commercial sex acts or for participation in international sex tourism by its citizens; however, the law permitted the prosecution of Belgian citizens for participating in child sex tourism.

TRAFFICKING PROFILE

As reported over the past five years, sex and labor traffickers exploit foreign and domestic victims in Belgium. Foreign victims come primarily from Asia (including the People’s Republic of China, India, and Thailand), Eastern Europe (especially Albania, Hungary, Romania, and Ukraine), and North and Sub-Saharan Africa (primarily Morocco and Nigeria). Sex traffickers exploit Belgian women and girls, some of whom are recruited by local traffickers. Sex traffickers exploit foreign children, including Romani and Nigerian girls; the latter are recruited through extensive trafficking networks in Nigeria. Thai criminal organizations exploit Thai women for sex in massage establishments that are frequently managed by Belgian citizens. Traffickers recruit girls from Eastern Europe on social media by posing as potential romantic partners. Belgian citizens participate in international child sex tourism. Labor traffickers exploit male victims in restaurants, bars, sweatshops, horticulture, fruit farms, construction, cleaning businesses, and retail shops; they exploit men and women in domestic service, including in the diplomatic community. Within the Romani community, traffickers exploit Romani children in forced begging and forced criminality. Asylum-seekers who have their applications for legal status denied, migrants transiting through Belgium to the UK, and unaccompanied migrant children are highly vulnerable to trafficking. Thousands of refugees, predominantly women and children, who are fleeing Russia’s full-scale invasion of Ukraine, have crossed the Belgian border seeking sanctuary and are vulnerable to trafficking.

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Austrian Red Cross Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)	Wiedner Hauptstraße 32, 1041 Wien T (Telefon) +43 1 589 00 583 F (Fax) +43 1 589 00 589 info@ecoi.net	Contact Imprint & Disclaimer F.A.Q. Data Protection Notice
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