

2023 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, if any, on its anti-trafficking capacity; therefore Belgium remained on Tier 1. These efforts included launching a website to help victims access services and request help, identifying and assisting more victims, and issuing significantly more residence permits to potential trafficking victims. Although the government meets the minimum standards, it investigated and prosecuted fewer suspected trafficking cases, and 56 percent of the sentences issued to convicted traffickers were fully or partially suspended. The government also imposed several conditions on victims' access to services, including access to residence permits, such as participation in a criminal case, which constrained victim identification and limited crucial services for victims.

PRIORITIZED RECOMMENDATIONS:

- Increase efforts to convict traffickers and sentence convicted traffickers to adequate penalties, which should involve 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 and ensure it is used effectively in practice, especially with respect to unaccompanied asylum-seeking children and child victims of forced criminality, 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 the outcome of the case against their trafficker or 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 maintained uneven 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 346 cases in 2022, compared with 383 cases in 2021 and 373 cases in 2020. The government prosecuted an unknown number of defendants in 47 cases in 2022, compared with an unknown number of defendants in 95 cases in 2021 and 38 cases in 2020. Authorities reported 114 convictions in 2021, the most recent year for which data was available, compared with 103 convictions in 2020. Courts sentenced 104 convicted traffickers to prison terms in 2021 (97 in 2020); however, 58 of the sentences were suspended or partially suspended (55 in 2020). Of the prison sentences issued in 2021, including those that were suspended or partially suspended, 18 were for less than one year (nine in 2020), 50 were for one to three years (47 in 2020), 29 were for three to five years (35 in 2020), and six were for five to 10 years (six in 2020). Experts attributed the high number of suspended sentences to several factors, including overcrowding in Belgian prisons, frequent use of pre-trial detention, the imposition of financial penalties, the law's overly broad definition of human trafficking, and the 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 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 funded trainings on topics such as trafficking investigations, prosecution of trafficking cases, and victim identification for front-line workers and first responders. The government cooperated with EU member states to conduct investigations in 2022 and signed a judicial cooperation agreement on organized crime and extradition with the United Arab Emirates. A joint sex trafficking investigation with German, Polish, and Spanish authorities resulted in 28 arrests – 27 in Belgium – and the identification of 20 potential victims in February 2023. The government transferred five convicted traffickers: one from Albania, two from Bulgaria, one from Portugal, and one from Romania. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes.

PROTECTION

The government increased efforts to protect victims, although several gaps in victim protection remained. The government formally identified and assisted 237 victims in 2022 (including 176 victims of labor exploitation, 44 victims of sexual exploitation, and 17 victims of unspecified forms of exploitation), compared with 151 victims in 2021 and 91 in 2020. Media reporting indicated the government had identified up to 174 potential labor trafficking victims as a result of an ongoing labor trafficking investigation. 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 did 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. 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. Although some police units and prosecutors specialized in trafficking cases, observers noted local police often struggled to recognize trafficking indicators, were overburdened by many responsibilities, faced high rates of turnover and staffing shortages, and lacked specialized anti-trafficking officers; they 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 confused child trafficking victims with those of 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 inappropriate penalization solely for unlawful acts committed as a direct result of being trafficked. GRETA noted authorities rarely properly identified child victims of forced criminality and instead treated them as underage offenders.

The government funded three specialized NGO-run shelters, which were formally recognized as part of the government's official anti-trafficking response; other organizations, including those accommodating child victims, were not considered official victim service providers under the NRM. The three government-funded shelters received 1,405 referrals of victims and potential victims in 2022, compared with 1,055 referrals in 2021. 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. GRETA noted, however, that the limited capacity of the official specialized shelters hindered potential victims' access to services; victims were unlikely to be fully informed of their right to such services unless they had contact with one of the three official 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. The government funded a temporary residence center for unaccompanied female potential trafficking victims between the ages of 14 and 18, which offered shelter, legal assistance, and tailored follow-on assistance plans and 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. Shelters for unaccompanied children continued to face unprecedented strain on capacity due to surging arrivals of asylum-seekers and reported many children went missing from the shelters each year, some of whom may have been trafficking victims. In January 2023, NGOs reported at least 24 children as officially missing, although experts estimate the actual number was likely much higher.

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. GRETA expressed concern residency was in practice tied to the outcome of the criminal case rather than the victim's willingness to assist in the prosecution; victims could lose their official victim status – along with their access to residence permits and related victim services – if a settlement was reached with the trafficker prior to indictment, the case was dismissed within two years of charges being filed, or the alleged perpetrator had diplomatic

immunity from prosecution. 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 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 393 residence permits for trafficking victims in 2022, compared with 202 in 2021.

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 request restitution for victims in court through the confiscation of these assets; for the fourth consecutive year, the government did not report data concerning courts granting restitution. Victims could claim compensation in local courts but often had to prove their case involved an intentional act of physical violence in order to receive compensation. Victims could also seek compensation through the Commission for Financial Assistance to Victims of Intentional Acts of Violence; GRETA noted the requirements for victims to claim compensation from this fund were often difficult to meet. The high costs of legal representation discouraged victim cooperation in criminal and civil proceedings and prevented many from seeking compensation. Additionally, foreign victims were only granted relief from deportation or other penalties if they assisted in the prosecution of their trafficker.

PREVENTION

The government maintained efforts to prevent trafficking. The Inter-Department Coordination Unit to Combat Trafficking coordinated government-wide anti-trafficking efforts and monitored the implementation of the 2021-2025 NAP. 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; it produced its own annual report on government anti-trafficking efforts and made recommendations to the government. Government-funded awareness campaigns focused on increasing victim identification by front-line workers. 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. In July 2022, the MOJ launched a website to help victims seek assistance; the site included the contact information for the three government-funded shelters, as well as channels for victims and witnesses to report suspected trafficking.

The Labor Inspectorate conducted 14,559 inspections throughout the reporting period. Labor inspectors referred an unknown number of potential victims to authorities for further review; the government did not report if 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 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 (PRC), India, Thailand, and Vietnam), 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 Roma 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. Vietnamese labor traffickers exploit Vietnamese victims in nail bars. 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 sites, fruit farms, construction sites, cleaning businesses, and retail shops; they exploit men and women in domestic service, including in the diplomatic community. Within the Romani community, traffickers exploit Roma children in forced begging and forced criminality. Belgium has seen a significant increase in the number of asylum applications filed in recent years; the federal asylum agency reported receiving approximately 37,000 applications in 2022 – a 40 percent increase from 2021 and more applicants than reception centers had the capacity to accommodate. Asylum-seekers who have their applications for legal status denied, those unable to be accommodated at reception centers, migrants transiting through Belgium to the UK, and unaccompanied migrant children are highly vulnerable to trafficking. More than 65,000 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.