

Recommended citation:

USDOS - US Department of State: Trafficking in Persons Report 2017 - Country Narratives - Poland, 27 June 2017 (available at ecoi.net)



Trafficking in Persons Report 2017 - Country Narratives - Poland

POLAND: Tier 1

The Government of Poland fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period; therefore, Poland remained on Tier 1. The government demonstrated serious and sustained efforts by increasing investigations, prosecutions, and convictions, and issuing more severe sentences for convicted traffickers than in past years. The government also approved a national action plan and increased funding for its implementation. Although the government meets the minimum standards, it still had challenges identifying forced labor and child trafficking victims and prosecuting labor trafficking cases.

RECOMMENDATIONS FOR POLAND

Sentence convicted traffickers to penalties proportionate with the severity of the crime and increase training for prosecutors and judges; vigorously investigate and prosecute trafficking crimes, particularly forced labor cases; increase training to law enforcement on investigating and prosecuting labor trafficking cases and consider creating specialized prosecution units for trafficking crimes; improve training and efforts to identify victims proactively, particularly among unaccompanied children, migrants, and children exploited in prostitution; improve measures to identify child victims; educate and incentivize foreign victims to enroll in the witness protection program and assist prosecution; facilitate victims' access to compensation by encouraging prosecutors to request compensation during criminal cases and systematically informing victims of their right to pursue civil suits against their traffickers; and improve central operational coordination and data collection for anti-trafficking activities.

PROSECUTION

The government increased law enforcement efforts, but did not issue consistently stringent sentences for convicted traffickers to reflect the heinous nature of the crime and deter future exploitation. Poland's penal code defines a trafficking crime in article 115.22, while article 189a prohibits all forms of trafficking and prescribes punishments of three to 15 years imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. In addition, article 203 prohibits inducing an adult into prostitution through

force, fraud, or coercion, and article 204.3 prohibits inducing a child into prostitution; both articles prescribe punishments of one to 10 years imprisonment.

The government lacked a central mechanism to cross-reference and consolidate law enforcement statistics, and it only considered convictions and sentences issued after appeals to be final. Authorities reportedly launched 31 investigations under article 189a in 2016, compared with 30 in 2015, and 28 in 2014. Authorities reported prosecuting 30 suspected traffickers under article 189a in 2016 (23 in 2015 and 28 in 2014). In 2016, 12 prosecutorial investigations conducted involved forced labor (17 in 2015 and eight in 2014). First-level courts issued 33 convictions under article 189a in 2016 (36 in 2015 and 17 in 2014). In addition, first-level courts issued 15 convictions under article 203 and six convictions under article 253, which criminalized trafficking prior to article 189a. In 2015, the most recent year for which post-appeal judgments were available, judges issued a total of 58 final convictions (37 in 2014 and 41 in 2013). Courts upheld 30 convictions under articles 189a and 253 (nine in 2014 and 13 in 2013). Courts also upheld 12 convictions under article 204.3 (16 in 2014). In addition, there were 16 upheld convictions for forced prostitution under article 203 (12 in 2014). Prison terms imposed ranged from one year to five years; 58 percent of sentences were for two years or less, which was a high percentage but an improvement from 2014 when 78 percent of sentences did not exceed two years. Authorities suspended a smaller proportion of prison sentences for trafficking convictions, decreasing to 45 percent in 2015 from 62 percent in 2014 and 41 percent in 2013. The government began drafting new legislation to reduce the number of suspended sentences on trafficking cases.

The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses. Authorities collaborated on investigations with counterparts in several foreign countries. The government increased trafficking-specific training for the border guard and national, regional, and district police. During 2016, authorities held trafficking training sessions for 236 prosecutors and judges; during 2015-2016, a total of 670 legal professionals were trained in prosecuting trafficking cases. Authorities reported there were very few prosecutions for forced labor for several reasons: the police had difficulty identifying this type of crime, there is not a good definition of forced labor in the Polish criminal code, prosecutors and judges often lacked expertise in labor trafficking cases, and victims are often unwilling to testify against their trafficker. This is despite NGOs assisting more than 88 victims of forced labor, forced begging, and forced criminality during the reporting period.

PROTECTION

The government maintained protection measures, but did not improve screening of unaccompanied children, obtaining victim cooperation with prosecutions, and assisting victims' efforts to seek compensation. Authorities trained police, border guards, 189 consular officers, 99 labor inspectors, 79 employees of crisis intervention centers, and 11 officials who interview asylum-seekers on trafficking victim identification. Also, the border guard organized training for 2,065 officers on standard operating procedures for assisting child victims of trafficking. With the help of an international organization, the border guard developed and implemented a new e-learning platform for border officials on methods to identify trafficking victims and the national referral mechanism. In September 2016, the national police commander issued an updated regulation on combating human trafficking that included a new identification tool for police officers. Police and prosecutors, however, acknowledged authorities lacked the expertise to identify forced labor victims. Observers

considered victim identification, especially in the cases of children and labor exploitation, to be a challenge for the government.

In 2016, the government allocated 1.1 million zloty (\$262,843) to two NGOs that run the National Intervention-Consultation Center for Victims of Trafficking (KCIK), which covered the majority of operating expenses; this is same amount allocated in 2015. The government identified 144 potential trafficking victims during the reporting period. KCIK provided assistance to 200 potential victims in 2016, compared with 229 in 2015 and 207 in 2014. KCIK offered victims medical and psychological care, legal counseling, shelter referrals, and welfare support. KCIK included two shelters for adult female victims. KCIK was responsible for finding safe accommodations for male trafficking victims and used crisis centers, hotels, and hostels for this purpose. The national system of victim assistance did not always address the needs of unaccompanied children, as there was no standardized system of screening unaccompanied children as potential trafficking victims. The government could place child victims in orphanages, with foster families, or in child assistance centers based on their needs. In 2016, the Children Empowerment Foundation launched a campaign to build the first children's assistance center for child victims of sexual exploitation, physical violence, and other serious crimes. Observers reported some unaccompanied children, who may have been trafficking victims, ran away from orphanages and were not recovered. Local governments also funded and operated crisis intervention centers; 18 were designated specifically for trafficking victims in 2015.

The government's witness protection program provided foreign victims with a temporary residence permit, medical and psychological care, legal assistance, and shelter for those who cooperated with a prosecution; this program also provided for a victim's repatriation. The government enrolled 39 trafficking victims into this program in 2016, compared with 38 in 2015; in 2012 to 2014, the government enrolled at least 56 victims each year. 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; 23 victims used this reflection period in 2016 (33 in 2015). Foreign victims were eligible for a residency permit valid for up to three years and were entitled to work; victims could also apply for permanent residency and were protected against deportation. Foreign victims were eligible for repatriation and may receive assistance upon return to their country of origin; the assistance did not depend on cooperation with law enforcement. In 2016, the government, in cooperation with an international organization assisted seven trafficking victims to return to their home countries. In 2016, 23 foreign victims who joined the witness protection program agreed to participate in the prosecution of their traffickers (27 in 2015). Polish law permits victims to provide testimony via video or written statements; however, judges in these cases often request additional testimony which results in a longer and more complicated legal process.

Although victims could file civil suits against traffickers and judges could order compensation for victims in criminal cases, observers reported very few trafficking victims have ever received compensation from their traffickers. In 2016, no victims received court ordered restitution in criminal cases. In October 2016, Poland ratified the 2014 Protocol to the 1930 ILO Forced Labor Convention, which obligates the government to create effective measures to combat forced labor, provide protection and support for labor trafficking victims, allow victims to receive compensation, and allow sanctions against traffickers.

PREVENTION

The government increased prevention efforts. In 2016, the government approved the 2016-2018 action plan and allocated 235,000 zloty (\$56,153) for its implementation, a 74 percent increase from 135,000 zloty (\$32,258) allocated in 2015 for the 2013-2015 plan. The interior ministry continued to lead the inter-ministerial anti-trafficking team, as well as a working-level group of experts and NGOs, which met regularly to coordinate efforts and develop national anti-trafficking policies. During the reporting period, provincial-level interagency anti-trafficking teams in all 16 regions of the country became fully operational; these units were designed to improve cooperation and coordination among relevant stakeholders. In 2016, the interior ministry held an anti-trafficking conference for leaders of all provincial interagency teams. The interior ministry published and made publicly available an assessment of the government's anti-trafficking activities for three consecutive years; the 2016 report will be published in September 2017. 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.

The government-sponsored information campaigns on human trafficking, several of which focused on forced labor, and targeted students, migrant workers in Poland, at-risk Polish communities, and Poles seeking work abroad. The government, in partnership with an NGO, also provided anti-trafficking training to labor recruitment agencies. A government-funded NGO operated a 24-hour hotline for trafficking victims and witnesses and trained 50 hotline operators on trafficking. The labor inspectorate pursued investigations into suspected labor violations. The government provided anti-trafficking training for its diplomatic and consular personnel. In July 2016, the government strengthened its law on public procurement to exclude any entity convicted of human trafficking from public procurement procedures. To help address experts' concerns that Poland may become a destination country for child sex tourism, the government continued to operate an NGO-designed internet platform for reporting cases of child sex trafficking.

TRAFFICKING PROFILE

Poland is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. 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 migrant population and North Korean migrant workers. Children, particularly Roma, are recruited for forced begging in Poland. Men and women from Poland are subjected to forced labor in Europe, primarily Western and Northern Europe. Women and children from Poland are subjected to sex trafficking within the country and also in other European countries. Women and children from Eastern Europe, particularly Bulgaria, Romania, and Ukraine, are subjected to sex trafficking in Poland. A growing number of Vietnamese victims transit Poland en route to Western Europe after being subjected to labor trafficking in Russia.