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2021 Trafficking in Persons Report: Poland

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. The government demonstrated overall increasing efforts compared to the previous reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Poland remained on Tier 2. These efforts included convicting more traffickers at the final instance level, revising victim identification and referral standard operating procedures (SOPs) for police and border guards, and launching a new awareness campaign to improve identification of victims among foreign migrants. The government also published a manual for employers to assist them in identifying forced labor in their businesses and supply chains. However, the government did not meet the minimum standards in several key areas. The government prosecuted fewer traffickers and prosecutors continued to classify trafficking crimes as lesser crimes. The government also identified fewer victims and did not increase resources for victim services, thereby constraining overall protection efforts. Government efforts to identify and protect child victims and to identify forced labor victims remained inadequate and authorities lacked a central mechanism to cross-reference and consolidate law enforcement statistics.

PRIORITIZED RECOMMENDATIONS:

Vigorously investigate and prosecute trafficking crimes, particularly forced labor cases, and sentence convicted traffickers to significant prison terms. • Increase training for prosecutors and judges on the importance of prosecuting under the anti-trafficking statute, the severity of trafficking crimes, and a trauma-informed, victim-centered approach to conducting trials. • Increase funding for comprehensive victim services, including specialized accommodation for child and male victims. • Proactively identify labor trafficking victims, including by strengthening the capacity of the Labor Inspectorate to identify victims of forced labor and refer them to services. • Increase training for law enforcement on the element of coercion in trafficking crimes to ensure that victims are not penalized for crimes their traffickers compelled them to commit. • Improve central operational coordination and data collection for anti-trafficking activities. • Establish procedures or specialized units to ensure trafficking cases are handled by trained prosecutors. • Appoint trauma-informed officials to conduct child victim witness interviews in a child-friendly manner. • Increase efforts to identify child sex trafficking victims and victims among vulnerable groups, particularly unaccompanied children and migrants.

PROSECUTION

The government maintained 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 criminal code, which prosecutors could still use in cases that started when Article 253 was in effect. Article 253 of the 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 and did not consistently disaggregate sex and labor trafficking data. Law enforcement authorities initiated 22 investigations under Article 189a (22 in 2019 and 33 in 2018); five were for sex trafficking, eight for forced labor, and nine for multiple forms of exploitation. Prosecutors initiated 46 investigations from cases referred by police and border guards (67 in 2019 and 79 in 2018) and prosecuted 20 defendants under Article 189a (46 in 2019 and 47 in 2018); 12 were for forced labor and eight for sex trafficking. The government also investigated 16 cases and prosecuted four defendants under Article 203 or Article 204.3, compared with 25 cases investigated and 27 defendants prosecuted in 2019. In one case, the court placed a defendant indicted for exploiting at least 100 victims for forced labor in pre-trial detention. Due to pandemic-related restrictions and subsequent information processing delays, the government did not report overall first and final instance (appeals) conviction data for 2020; however, the National Prosecutor’s Office (NPO) reported 12 final convictions under Article 189a (compared with 10 final convictions under Articles 189a and 253 in 2018, the most recent year for which data was available); eight for sex trafficking, one for forced

labor, and three for other forms of exploitation. In the previous reporting period, first-level courts issued 31 convictions under Article 189a and 20 convictions under Article 203. According to media reports, in one case an appeals court sentenced three traffickers to three and a half, six, and seven years’ imprisonment for forcing a victim into commercial sex. In a separate case, media reported an appeals court sentenced one trafficker to one and a half years’ imprisonment for exploiting 18 Ukrainian victims for forced labor. The government reported that law enforcement efforts were diverted to pandemic-related activities throughout the year and up to nine percent of the police force contracted COVID-19. Moreover, courts considerably limited their operations during the first months of the pandemic, and law enforcement was limited in its ability to collect evidence and interview victims and witnesses; one NGO reported that the legal validity of online interpreter-aided testimony was unclear under the law, leading the police to not register some potential trafficking crimes.

The National Police maintained an anti-trafficking department with 11 officers, along with 17 regional offices, each with three to eight officers investigating trafficking, child pornography, and child sexual abuse. The Central Bureau of Investigations maintained an anti-trafficking coordinator at its headquarters and in each of its 17 regional branches, and the Border Guard operated a specialized central team and had 10 regional anti-trafficking coordinators. Each regional prosecutorial office had a trafficking expert to assist local prosecutors who could assume responsibility for more complex cases. Although the NPO monitored all trafficking cases throughout the country, cases had to be classified as trafficking in the investigation stage to enter the monitoring system. Experts reported district prosecutors often qualified trafficking as lesser offenses, such as pimping or violation of workers’ rights. Observers noted it was difficult to meet the evidentiary threshold to prosecute a crime under the trafficking statute. The NPO continued using a formal mechanism established in 2018 for law enforcement to refer discontinued or dismissed trafficking investigations and prosecutions for review to the prosecutor responsible for coordinating trafficking investigations. However, an NGO reported there was no formal mechanism for civil society to refer cases to the NPO for reconsideration. The police referred 11 cases to NPO (seven in 2019); NPO agreed with the police that five cases potentially involved trafficking (six in 2019), and all five cases remained under investigation at the end of the reporting period. NPO requested additional information from the police on three of the cases and had not decided the remaining three cases by the end of the reporting period.

Observers reported that despite the continued increase in labor trafficking in Poland, the government rarely prosecuted forced labor cases due to the difficulty in collecting evidence in these cases, the low number of victims who self-identify as forced labor victims, and a lack of political will to prioritize a form of trafficking that largely affects foreign migrants or Polish citizens residing abroad. Moreover, the law did not have a clear definition of what constitutes forced labor in the criminal code, which contributed to law enforcement’s under-identification of labor trafficking, and prosecutors and judges often lacked expertise in labor trafficking cases. Additionally, observers reported prosecutors and judges lacked familiarity with victim-centered approaches, the impact of trauma on victims, and the severity and complexity of the crime. Observers reported the frequent rotation of government officials focused on trafficking, both at the national and provincial levels, negatively impacted the government’s understanding of the complexity of the crime. Many of the government’s institutionalized training programs for police, border guards, prosecutors, judges, consular officers, asylum officers, and labor inspectors on various anti-trafficking issues, including SOPs, victim interviews, joint investigations, and other basic and specialized training, were conducted fully or partially online due to the pandemic. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking crimes. Authorities collaborated on investigations with counterparts in the United Kingdom (UK), Germany, and other EU countries, and prosecutors issued a European Arrest Warrant for a suspected trafficker residing in the UK.

PROTECTION

The government demonstrated mixed protection efforts; while it revised SOPs to improve victim identification efforts, during the reporting year it identified far fewer victims. The National Police and Border Guard identified 82 potential victims (221 in 2019 and 162 in 2018) and referred 39 to care facilities (104 in 2019 and 47 in 2018); the government reported all victims were offered services, but some chose not to accept them. Observers reported pandemic-related restrictions were largely to blame for this decrease, and an NGO stated police capabilities were reduced during the year. The Office for Foreigners identified two asylum applicants as potential trafficking victims—one forced begging victim from Moldova and one sex trafficking victim from Ukraine. The National Intervention-Consultation Center for Victims of Trafficking (KCIK), run by two government-funded NGOs, provided assistance to 166 potential victims (226 in 2019 and 168 in 2018), including 40 victims of sex trafficking, 70 victims of forced labor (including three for forced criminality, one for domestic service, and one for forced begging), and 56 victims of other types of exploitation; 102 were female and 64 were male and 109 were foreign victims. Police reported regularly conducting investigations at escort agencies to proactively identify potential sex trafficking victims. The government maintained SOPs for the identification, referral, and support of trafficking victims, including standardized indicators and specific indicators to identify child victims. The government revised the SOPs for the National Police and Border Guard in 2020 to improve identification and referral efforts, and the Ministry of Interior (MOI) designed a poster with a list of trafficking indicators to assist police and border guards with identifying potential trafficking victims. However, police and prosecutors acknowledged authorities lacked the expertise to identify forced labor and child victims, particularly among unaccompanied children. As in the previous two years, labor inspectors did not identify any victims in 2020 and noted challenges in determining whether an offense constituted a violation of workers’ rights or forced labor. Law enforcement used indicators with sample questions focused on freedom of movement but did not take psychological coercion or subtle forms of force into consideration. The Ministry of Family and Social Policy conducted a training session for 30 social workers focused

on victim identification, crisis intervention, and cooperation with other institutions on victim protection. Civil society representatives reported effective cooperation with the national police and border guard on victim referral procedures during the reporting period.

KCIK provided adult and minor victims with medical and psychological care, shelter, legal counseling, welfare support, reintegration services, and referrals to orphanages and foster care for child victims. KCIK operated two shelters for adult female victims, a small shelter for men with capacity to accommodate three adult male victims, and rented apartments for victims who did not prefer shelters. The government allowed victims to seek employment and work while receiving assistance and leave the shelters unchaperoned and at will; shelters and housing were available for victims with disabilities. The government provided specialized shelter and housing to 42 victims in 2020 (58 in 2019). Victims also could receive general assistance (social, medical, psychological, legal) in 168 crisis intervention centers operated and funded by local governments, 20 of which maintained staff trained on assisting trafficking victims; KCIK arranged accommodations for 23 victims using crisis centers and other locations (54 in 2019).

Funding for victim services remained stagnant for the sixth year following a 10 percent increase in 2015. In 2020, the government allocated 1.1 million zloty (\$296,260) to two NGOs that run KCIK, the same amount as in 2019 and 2018. The government also allocated 80,000 zloty (\$21,550) to train welfare assistance personnel on identification of victims and provision of assistance to trafficking victims and witnesses, the same amount as in 2019. Experts said limited government funding for victim assistance constrained service provision, particularly outside of Warsaw and Katowice. Shelter capacity for male victims was insufficient given the increasing number of male labor trafficking victims. Observers expressed concern the national system for child victim assistance did not properly address the needs of unaccompanied children and noted the government placed unaccompanied child victims in foster families or orphanages unprepared to assist child victims. 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; in the first six months of 2020, 16 non-EEA national victims received assistance, compared with 20 in the first six months of 2019 (32 total in 2019). Victims from the EEA had access to the full scope of welfare benefits offered to Polish citizens if they could prove habitual residency, but NGOs reported some victims, particularly from Romania and Bulgaria, were unable to prove this through the required documentation; in 2020, KCIK provided assistance to six EEA nationals (four Bulgarians and two Romanians).

Authorities reported screening individuals in vulnerable populations, including individuals in commercial sex and migrants, when detaining and arresting. 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; 11 victims used this benefit during the reporting period (120 in 2019). Foreign victims were eligible for a residence permit valid for up to three years, which entitled them to work, and could apply for permanent residency; authorities granted residence permits to 15 foreign victims in 2020, including nine from Uganda, two each from Colombia and the Philippines, and one each from India and Ukraine. The government coordinated with an international organization to repatriate two foreign victims (three in 2019), one to Bulgaria and one to Colombia. 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 government reported the majority of victims identified by prosecutors agreed to cooperate in investigations of their traffickers. However, experts noted law enforcement and prosecutorial interview techniques lacked a trauma-informed approach, hindering opportunities to build rapport with traumatized victims, who then were less likely 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. Prosecutors rarely requested restitution in criminal proceedings but a court awarded 1,000 zloty (\$269) in compensation to each of six victims (eight in 2019). Victims also could receive compensation in civil suits; the government did not report if any victims filed such suits during the reporting year.

PREVENTION

The government modestly increased prevention efforts. The MOI maintained an advisory body, chaired by the Minister of Interior and including interagency and civil society representatives, that was tasked with evaluating the implementation of anti-trafficking projects, monitoring national action plan (NAP) implementation, and preparing annual reports. Civil society continued to express concern that this body lacked authority and could not compel government agencies to provide resources for anti-trafficking efforts. The advisory body met twice during 2020, as did three of its working groups. In January 2021, one of these working groups met to develop a victim identification and referral SOP for labor inspectors, to complement SOPs already in place for the National Police and Border Guard. MOI organized two virtual meetings with provincial-level interagency anti-trafficking teams, resulting in the establishment of a special working group tasked with improving provincial teams' efficiency and increasing the exchange of best practices. The Council of Ministers formally approved the 2019-2021 NAP in April 2020, although it had previously been approved in 2018 by an inter-ministerial group. For the third consecutive year, the government allocated 135,000 zloty (\$36,360) for the implementation of the NAP. MOI published an annual implementation report and maintained a web portal with relevant statistics, publications, and information on victim assistance. The government lacked a central mechanism to cross-reference and consolidate trafficking-related statistics, hindering officials' ability to assess the scope of trafficking and the efficacy of law enforcement efforts. The government launched an awareness campaign targeting migrants at risk of being exploited in Poland by placing billboards with a hotline number in three languages throughout a city and airport and displaying a banner with a message in nine languages on the government's online visa application portal. The government created a leaflet in

four languages for migrants at risk of exploitation and coordinated with NGOs and the UK to place posters on online job advertisement portals with information on legal employment in Poland and abroad, risk factors for trafficking, and assistance resources. Provincial-level interagency anti-trafficking teams in all 16 regions continued prevention and public awareness campaigns, including by distributing leaflets and showing a mobile exhibition on forced labor. Observers noted these provincial-level anti-trafficking teams were uncoordinated and uneven in their effectiveness.

A government-funded NGO operated a 24-hour hotline for trafficking victims and witnesses, which received 9,504 calls (6,899 in 2019); the hotline did not maintain statistics on how many calls were trafficking-related or resulted in investigations and victims identified. Local authorities could ban employers previously convicted of trafficking from hiring foreigners; the government did not report whether any entities were banned. The National Labor Inspectorate (NLI) reported 54 job recruitment agencies to local authorities for operating illegally; the government removed 19 job recruitment agencies from the official registry of legally operating recruitment agencies (39 in 2019). Due to pandemic-related restrictions, NLI inspections were limited to emergency situations for four months of 2020. The NLI conducted 429 inspections of job recruitment agencies (651 in 2019) and reported one case of potential trafficking involving Ukrainian migrant workers. The regional prosecutor's office declined to continue the investigation; after an appeal from the NLI a first instance court upheld the decision in February 2021 to discontinue the case. Additionally, the NLI continued distributing information leaflets in English and Ukrainian that were created for a 2017-2019 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. NLI branch offices conducted several activities throughout the year to promote legal employment and raise awareness about forced labor, including by participating in radio and television programs to discuss the protection of labor laws and providing counseling services to employment offices on legal employment and forced labor indicators. Additionally, an interagency advisory body within the Ministry of Development Funds and Regional Policy published a manual for employers on how to identify victims and prevent forced labor in businesses and supply chains; the manual includes questionnaires employers can use to identify potential victims. In cooperation with civil society, the government held a workshop in October 2020 for the business community to review the new manual and provide practical guidelines for its implementation. However, observers reported authorities took six to 12 months to issue combined residence and work permits to migrants, who often worked illegally during this time and were vulnerable to exploitation. MOI participated in a Council of the Baltic Sea States (CBSS) taskforce that updated the region's transnational referral mechanism, as well as in a CBSS project to review national legislation, court cases, and possible obstacles in combating labor trafficking. The government did not make efforts to reduce the demand for commercial sex acts.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Poland, and traffickers exploit Polish victims abroad. Traffickers exploit Polish women and children in sex trafficking within Poland and other European countries, notably France and Germany. Traffickers exploit men and women from Poland for forced labor in Europe, primarily Western and Northern Europe and in particular Germany, Norway, Sweden and the UK. Traffickers exploit women and children from South America and Eastern Europe—particularly Bulgaria, Romania, and Ukraine—in sex trafficking in Poland. Labor trafficking is increasing in Poland; victims originate from Europe, Asia, South America, and Africa. Traffickers increasingly exploit migrants in forced labor among Poland's growing Ukrainian, Belarusian, Filipino, and Vietnamese populations, particularly in agriculture, restaurants, construction, domestic work, and the garment and fish processing industries. Observers reported the pandemic increased migrant workers' vulnerability to trafficking; the number of potential Ukrainian victims exploited in trafficking in Poland and seeking assistance upon their return to Ukraine increased twofold in 2020. Traffickers recruit children, particularly Roma, for forced begging in Poland.

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