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2019 Trafficking in Persons Report: Hungary

HUNGARY: Tier 2 Watch List

The Government of Hungary does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. These efforts included issuing new prosecutorial guidelines related to trafficking cases, launching services at four halfway houses, and adopting a national action plan. However, the government did not demonstrate increasing efforts compared to the previous reporting period. Government officials did not adequately screen for trafficking indicators among vulnerable populations. Services for victims remained scarce, uncoordinated, and inadequate, especially for children, for whom there were no dedicated shelters, and for foreigners. The law authorized the detention of child sex trafficking victims; law enforcement arrested and prosecuted children exploited in sex trafficking as misdemeanor offenders, including sentencing seven children to detention based on their exploitation in sex trafficking. Courts suspended most traffickers' sentences; only three of the 11 convicted for trafficking-related offenses served prison time. Because the government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards, Hungary was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Hungary remained on Tier 2 Watch List for the third consecutive year.

PRIORITIZED RECOMMENDATIONS

Screen all individuals in prostitution for trafficking indicators and protect adult and child victims of sex trafficking from punishment. • Significantly increase the quality and availability of specialized victim services for adults and children, including by expanding the national referral mechanism to formally include foreign victims without legal residency, and provide sufficient funding to NGOs to offer victim care. • Proactively identify potential victims, especially among vulnerable populations, such as migrants and asylum-seekers, children in state-run homes and orphanages, and individuals in prostitution, including by developing and funding protocols for identification and referral and by enhancing training for law enforcement and social workers on recognizing indicators of exploitation. • Increase law enforcement and judiciary efforts to investigate, prosecute, and convict traffickers under the trafficking statute and punish them with significant prison terms. • Implement the general non-punishment provision to ensure trafficking victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts their traffickers compelled them to commit. • Train

law enforcement, prosecutors, and judges on the severity of the crime and the irrelevance of a victim’s initial consent for proving a trafficking crime. • Take additional steps to prevent trafficking of vulnerable children residing in state-run childcare institutions and individuals who leave these institutions. • Increase victim-centered, trauma-informed training for law enforcement, prosecutors, judges, and social workers. • Bolster protection for victims who face serious harm and retribution from their traffickers, including by developing additional longer-term care options to improve reintegration. • Bring the anti-trafficking law in line with international law by more precisely defining exploitation and requiring fraud, force, or coercion as elements of the core offense of adult trafficking. • Enhance the collection and reporting of reliable law enforcement and victim protection data.

PROSECUTION

The government moderately increased its insufficient prosecution efforts. Article 192 of the 2013 criminal code criminalized sex and labor trafficking, but inconsistent with the definition of trafficking under international law, it established the use of force, fraud, or coercion as an aggravating factor rather than an essential element of the crime. The law broadly defined exploitation as the abuse of power for the purpose of taking advantage of a victim. The prescribed penalties for the base offense ranged from one to five years’ imprisonment, while the penalties for trafficking crimes involving aggravated elements ranged from two to 20 years or life imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes. Additionally, Article 193 criminalized forced labor, with sentences ranging from one to five years’ imprisonment for offenses involving an adult victim and two to eight years’ imprisonment for those involving a child victim. Article 203 criminalized profiting from “child prostitution” or “paying for sex with a child” and prescribed penalties of up to three years’ imprisonment, which were not sufficiently stringent. Penalties under this provision increased only if a person was “supported partly or wholly by profiting” from such exploitation of a child or for maintaining or operating a brothel for the purposes of such exploitation of a child.

Law enforcement data remained unreliable, making it difficult to assess efforts. The government claimed low rates of investigation, prosecution, and conviction were due to a consolidation of public security over the last eight years; nonetheless, law enforcement efforts remained disproportionately low. The government reported the number of registered crimes in 2018 rather than the number of closed investigations because the data on closed investigations provided in previous years contained possible duplications. This methodological change in reporting made it difficult to compare statistics year to year. In 2018, police registered 47 trafficking crimes (95 in 2017)—four crimes under Article 192 and two under Article 193 (18 closed investigations in 2017 under Articles 192 and 193) and 41 under Article 203 (58 closed investigations in 2017 under 203, as well as 19 additional closed cases of trafficking for unspecified forms of exploitation). Officials reported 29 indictments (14 in 2017)—three under Article 192 (none in 2016 or 2017); two under Article 193 (three in 2017 and two in 2016); and 24 under Article 203 (11 in 2017 and 22 in 2016). Courts convicted 11 for trafficking or trafficking-related crimes, compared to three in 2017—10 under Article 192 and one

under Article 175/B of the old criminal code. In addition, there were no convictions under Article 203 in 2018 (17 in 2017) or Article 193 in 2017 or 2018. Only three of the 11 convictions resulted in a convicted trafficker serving time in prison, as courts suspended all others. Courts suspended the sentences of seven convicted under Article 192 (one for two years' imprisonment, two for one year eight months' imprisonment, and four for one year of imprisonment). One convicted under Article 192 received two years of probation. The court did not suspend the sentences of two convicted under Article 192 (one for six years' imprisonment and one for five years' imprisonment) and one individual convicted under former Article 175/B (five years' imprisonment). Although the 2012 criminal code removed a requirement that trafficking include a commercial transaction, judges reportedly continued to seek this evidence. County police, supervised by county prosecutors, conducted domestic investigations and transferred investigations to the National Bureau of Investigations (NBI) trafficking unit if cases involved organized crime or an international connection. The NBI trafficking unit employed 11 people (11 in 2017), which experts noted was insufficient given the magnitude of the problem. Observers raised concerns that law enforcement regularly underreported trafficking offenses and underutilized Article 203. In October 2018, the national prosecutor general's office issued prosecutor guidelines stating a victim in a vulnerable position cannot give valid consent to a crime violating their human dignity or personal freedom, thereby directing authorities that such consent should not prevent the prosecution of a trafficking case. The guidelines also directed prosecutors to review ongoing pandering cases and, if appropriate, re-classify them as trafficking offenses, which carried higher penalties.

Officials prosecuted some traffickers for non-trafficking crimes to increase the likelihood of a conviction. The government reported no knowledge of officials complicit in trafficking. The government did not provide standard routine training on trafficking for law enforcement professionals, but provided several ad hoc training courses and projects. The government trained approximately 280 judicial staff on victim protection (130 in 2017 and 840 in 2016), 50 deputy prosecutors general on trafficking indicators, and 50 law enforcement officials on prostitution and human trafficking, focusing on child victims and their identification and referral, as well as prevention. During the reporting period, national police cooperated with their counterparts in the Netherlands and the United Kingdom (UK) on three joint investigation teams pursuing trafficking cases. The government did not report extraditing any foreign nationals accused of trafficking in 2017 or 2018 (52 in 2016).

PROTECTION

The government maintained insufficient protection efforts. The government reported 30 identified victims as registered in the EU-funded digital platform for recordkeeping and case management for trafficking victims (EKAT system), the first year of its operation, compared with 33 identified victims in 2017 and 44 in 2016, not including those identified by embassies. Of the 30 registered victims, NGOs referred 18; MOJ's victim support service registered eight; embassies referred three; and the probation service referred one. The NBI trafficking unit reported identifying 26 victims and regional law enforcement reported identifying 10 victims (law enforcement did not

report how many victims it identified in 2017); authorities informed victims of available services but did not refer them. NGOs reported assisting 79 trafficking victims (66 in 2017 and 143 victims in 2016). More than 540 officials were trained on the EKAT system with EU funding. NGOs reported a lack of clarity on the purpose of the EKAT system and how the government planned to use it to provide case management for victims. The government did not screen or adequately identify victims among vulnerable populations, such as adults and children exploited in commercial sex, children living in government-run institutions, foreign workers, and unaccompanied minors, including asylum-seekers. Although the immigration and asylum office implemented extensive training for its officers and social workers in transit zones and within the country and, along with an NGO, developed a new identification form for screening, it did not identify any victims among third-country nationals, including asylum seekers, in 2018. Moreover, experts criticized the government for not having an adequate referral mechanism in the transit zones. Unaccompanied children younger than 14 years old were removed from the transit zones, but did not have access to specialized services; children, including victims, between the ages of 14-18 could not leave the transit zone unless the government approved their asylum application. The government decree on the trafficking victim identification mechanism listed the institutions responsible for identifying victims, the questionnaire to be completed with suspected victims, and procedural protocols. Observers criticized the mechanism for lacking clarity and standards; granting wide discretion to front-line officials, including the police; as well as a lack of widespread dissemination of the protocols among officials. Law enforcement generally treated all persons accused of prostitution, including children, as criminals, charging them with related administrative penalties and misdemeanor offenses. Hungarian anti-trafficking law did not protect trafficking victims, including children, from administrative or criminal penalties for unlawful acts traffickers coerced them to commit. The government passed an amendment to the act on administrative offenses in 2017 that added the possibility of applying the general non-punishment provision for victims of crime in case of partial exemption for criminal responsibility and reported it applied to all administrative offenses, including for prostitution; the government did not report examples of the application of this provision. The government consistently failed to implement a 2011 EU directive requiring authorities to treat individuals subjected to trafficking in prostitution as trafficking victims regardless of initial consent. According to the law on misdemeanors, children could be detained in a correctional facility for up to 30 days or, as cumulative punishment, up to 45 days for engaging in commercial sex. Some experts said police generally did not understand that people in prostitution were vulnerable to trafficking or that the non-punishment provision for crime victims could apply to them; police rarely screened prostitution case defendants, including children, for trafficking indicators. Judges reported administrative proceedings penalizing a child only stopped if the child declared victimhood. Authorities penalized 54 children (67 in 2017 and 88 in 2016), all of whom were girls, for prostitution offenses; 30 children received a warning, 11 received a fine (two without the possibility of appeal), seven received detention in a penitentiary, and six received community service. Experts questioned the accuracy of government data on child detention and estimated authorities held more than 200 children per year in detention for prostitution-related offenses.

Victim assistance services remained scarce, uncoordinated, and inadequate, and they exposed victims to the risk of re-victimization. The government provided 24.25 million forint (\$86,550), compared to 21.9 million forint (\$78,170) in 2017 and 19 million forint (\$67,820) in 2016, in the form of one-year grants to one NGO to run two temporary shelters that could assist 12 victims each with accommodation, transport, psycho-social support, and legal information. Both temporary shelters could accommodate men and women; 10 men and 21 women received accommodation (compared with 20 victims in 2017). The same NGO received an additional 8 million forint (\$28,550) to operate four halfway houses that could assist four victims each with reintegration for a maximum of five years; 12 victims who had previously received care at the temporary shelters received assistance at the halfway houses. Authorities provided 10 million forints (\$35,690) to another NGO for the renovation of its shelters for trafficking victims, compared to 5.4 million forints (\$19,270) in 2017 for the operation of the shelters and two employees' salaries. The MOJ signed a public service contract in 2019 with one NGO to operate three victim support centers and assist the victim support line, which received calls regarding all types of crime, with 115.2 million forints (\$411,180) for 2019 operations. There was a severe lack of funding for victim services; NGOs urged the government to make trafficking a priority by making available robust funding for quality victim care.

All Hungarian and EU victims were eligible for government-provided financial support, psychological services, legal assistance, witness care, and shelter, as long as the trafficking occurred in Hungary; Hungarian citizens also could receive these services if they were legally present in the country in which they were victimized. The national referral mechanism did not apply to non-EU citizens without legal residence and did not provide a basis for funding services to these victims. The Ministry of Human Capacities (MHC) granted ad hoc approval to a government-funded NGO to provide services to non-EU victims in all cases when the NGO requested it; the government did not report how many cases. Experts criticized the government's lack of harmonized guidelines on protective services for victims, noting the referral system was ineffective, and reported there was no consensus among the responsible ministries regarding protected placement options for foreign non-EU national victims, regardless of residency. Hungarian and EU victims were eligible to receive services through two temporary shelters for up to six months, independent of a victim's cooperation with law enforcement. The MOJ victim support service could provide financial aid, certificates of victim status, and witness care if the government initiated criminal proceedings against the perpetrator; it provided 43,000 forints (\$153) in financial aid to one victim registered in the EKAT system, compared with 117,500 forints (\$419) for two victims in 2017. The victim support service could pay repatriation travel expenses upon request. One Hungarian national requested repatriation assistance from the UK; the Hungarian embassy transported the victim in its vehicle. Only one of the MOJ's three crime victim support centers, designed to provide services such as customized psychological and emotional support and information on victims' rights to victims of crime, including trafficking victims, provided services to trafficking victims in the reporting period; the center in Budapest provided emotional assistance to six suspected trafficking victims. Experts criticized the centers for deficiencies in applying a multidisciplinary approach and for lacking means to provide comprehensive services, including accommodation, or a process for monitoring and evaluation. The government did not have a dedicated

program to provide return and reintegration assistance for Hungarian victims identified abroad. Experts noted services for long-term reintegration were lacking. No victims received state-ordered restitution or compensation.

The government lacked a framework for identifying, referring, or assisting child victims other than the general child protection system and state-run homes, but this system had insufficient staff and resources to provide appropriate care or security, leaving victims vulnerable to re-trafficking. Experts criticized the chronic lack of assistance and specialized shelters for child trafficking victims. The government placed three child sex trafficking victims returned from Austria in state-run children’s homes. The government gave one NGO 5 million forint (\$17,850) in October to provide victim assistance to child sex trafficking victims and prevention activities for vulnerable children in three state-run children’s homes, compared with 6 million forint (\$21,420) in 2017. Children in state-run homes or orphanages were vulnerable to trafficking, both while living in the home and upon their required departure at age 18. Some observers reported the government did not provide adequate specialized services for child victims in state-run homes, which they described as “prison-like.” Experts reported children who tried to escape children’s homes and were recovered were sometimes locked in their rooms for weeks or months at a time. In 2016, the MHC set up an expert working group, comprising NGO and government representatives, on sex trafficking in state-run institutions; the group produced an assessment with recommendations in May 2017; the government held a training based on the recommendations. In July 2018, the government issued a directive that all child protection institutions and state-run homes must report to law enforcement all suspected cases of children exploited in prostitution, despite the known problem of some of the police treating such children as criminals rather than victims.

In a 2018 report, the Council of Europe’s expert group on human trafficking (GRETA) expressed profound concern about children in the transit zones and the lack of efforts made to identify victims of trafficking among asylum seekers and irregular migrants in Hungary. GRETA reported conditions in the transit zones were not conducive to creating an atmosphere of trust that would make it possible for victims of trafficking to come forward. GRETA also reported the persistence of collective expulsions conducted without pre-removal risk assessments.

Foreign non-EU national victims could receive a 30-day reflection period to decide whether to assist law enforcement, during which they were eligible for a certificate of temporary stay; the MOJ’s victim support service initiated the issuance of a certificate for temporary stay in cooperation with the immigration authority. Foreign non-EU national victims who cooperated with authorities were entitled to a residence permit for the duration of their cooperation. The government did not issue any temporary residence permits, permanent residence permits, or exemptions from deportation for trafficking victims during the reporting period. The new act on criminal proceedings, which entered into force in July 2018, allowed courts to protect the identity of trafficking victims who testify. NGOs remained concerned about inadequate government protection for victims who testified against traffickers; no victims assisted in an investigation or prosecution of a trafficking case or participated in the witness protection program during the reporting period.

PREVENTION

The government moderately increased prevention and coordination efforts. The government had an anti-trafficking coordinator who chaired the national coordination mechanism, an entity including government actors, one international organization, and two NGOs, one of which operated the government-funded trafficking shelter. The NGO roundtable, also chaired by the national coordinator, complemented its work. Both entities met twice in the reporting period. The government and the majority of NGOs considered these two forums effective for exchanging experiences and good practices. The government approved an action plan to combat trafficking for 2019 and dedicated 159 million forint (\$567,510) to its implementation, including to purchase a vehicle to transport child trafficking victims and to open a shelter for victims. The government did not release reports assessing its anti-trafficking efforts. The government provided approximately 66.8 million forint (\$238,430), the same amount as in 2016 and 2017, for the operation of the NGO-run national crisis telephone service (OKIT), a 24-hour hotline for assisting victims of domestic violence and human trafficking, with only Hungarian and English languages available. OKIT provided support to 18 potential victims (22 in 2017) in connection with approximately 100 trafficking-related phone calls out of approximately 9,000 total calls. OKIT referred 15 adult victims to shelter.

The government did not make efforts to reduce the demand for sex or labor trafficking. The government did not have the authority to inspect labor recruitment agencies or impose fines or punishment on foreign labor exchange agencies that committed trafficking offenses, but it could assess agencies' compliance with regulations concerning temporary work; it did not identify any victims while conducting this type of inspection.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Hungary, and traffickers exploit victims from Hungary abroad. Vulnerable groups include Hungarians in extreme poverty, undereducated young adults, Roma, single mothers, asylum-seekers and unaccompanied minors, and homeless men. Traffickers subject Hungarian women, boys, and girls to sex trafficking within the country and abroad, mostly within Europe, with particularly high numbers in Germany, the Netherlands, and France. Traffickers subject Hungarian men and women to forced labor domestically and abroad, particularly in Germany, the UK, and the Netherlands. NGOs have reported a phenomenon of selling disabled victims for sex trafficking. Hungarians, particularly Romani women and girls and those from state care institutions, are exploited in sex trafficking in large numbers in Austria by Hungarians of Roma and non-Roma origin. A large number of Hungarian child sex trafficking victims exploited within the country and abroad come from state-provided childcare institutions and correctional facilities, and traffickers recruit them when they leave these institutes. Hungarian women lured into sham marriages to third-country nationals within Europe are reportedly subjected to forced prostitution. Hungarian men are subjected to labor trafficking in agriculture, construction, and factories in Western Europe. Trafficking victims from Eastern European countries transit Hungary en route to Western Europe.

Hungary is a transit country for asylum-seekers and illegal migrants, some of whom may be or may become trafficking victims. Within the country, some Romani children are exploited in forced begging, child sex trafficking involving both girls and boys, and forced petty crime.

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