

2023 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 with the previous reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore Poland remained on Tier 2. These efforts included increasing penalties for convicted traffickers and identifying more victims. The government funded two NGOs that provided assistance to more potential trafficking victims. In addition, the government took extensive steps to prevent the trafficking of those fleeing Russia's war against Ukraine through awareness efforts, the creation of a hotline, the creation and use of SOPs regarding unaccompanied foreign national children crossing the Poland-Ukraine border, and active coordination with international organizations and NGOs. However, the government did not meet the minimum standards in several key areas. The number of trafficking investigations, prosecutions, and convictions all decreased. During the reporting period, the government's funding for victim services remained stagnant, and experts continued to note shelter capacity for male trafficking victims was insufficient. The government did not report awarding compensation to any victims during the reporting period, and restitution for victims remained rare.

PRIORITIZED RECOMMENDATIONS:

- Increase efforts to identify trafficking victims, particularly among vulnerable populations, including unaccompanied children and migrants.
- Proactively identify labor trafficking victims, including by strengthening the capacity of the Labor Inspectorate to identify victims of labor trafficking and refer them to services.
- Vigorously investigate and prosecute alleged trafficking crimes, particularly labor trafficking, and seek adequate penalties for convicted traffickers, which should involve significant prison terms.
- Increase funding for comprehensive victim services, including specialized accommodation for child and male victims.
- 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 training for law enforcement on the element of coercion in trafficking crimes to ensure that victims are not inappropriately penalized solely for unlawful acts committed as a direct result of being trafficked.
- Improve central operational coordination and data collection for anti-trafficking activities.
- Increase worker protections by eliminating all recruitment fees charged to workers by labor recruiters and ensuring employers pay any recruitment fees and related processing.
- 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.
- Improve victims' ability to access court-ordered restitution in criminal cases and compensation through civil proceedings.

PROSECUTION

The government decreased prosecution efforts; the number of investigations, prosecutions, and convictions all decreased. Article 189a of Poland's penal code criminalized sex trafficking and labor trafficking and prescribed penalties of three to 15 years' imprisonment. These penalties are 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 penalties 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 penalties of one to 10 years' imprisonment. During the reporting period, the government amended the penal code to increase the penalties prescribed under Article 189a and 203; these penalties will come into effect after October 1, 2023. In 2022, the Interior Minister approved a multi-step plan to assess the need for a new comprehensive law on human trafficking.

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 23 investigations under Article 189a, a decrease compared with 32 in 2021; seven were for sex trafficking, 12 were for forced labor (including five for forced begging) and four were for unspecified forms of trafficking. Prosecutors initiated 26 investigations from cases referred by police and border guards, a decrease compared with 57 in 2021, and prosecuted 17 defendants under Article 189a, a decrease compared with 25 in 2021. The police also initiated 12 case investigations under Article 203 and four cases under Article 204.3, and prosecutors indicted 11 defendants under Article 203. In 2021, police investigated 16 cases and prosecutors indicted 16 defendants under Article 203 and/or Article 204.3. The National Prosecutor's Office (NPO) reported courts convicted four traffickers under Article 189a, a significant decrease compared with 25 traffickers in 2021. One was sentenced to five years' imprisonment, one to four years, one to three years, and one to two years. Additionally, three persons were convicted under Article 203, compared with none in 2021. During 2022, the Border Guard launched two investigations into forced labor involving victims from Guatemala, Colombia, Venezuela, and Mexico who were exploited through local recruitment agencies and internet platforms offering fraudulent terms of employment. Since the beginning of Russia's full-scale invasion of Ukraine, the National Police launched five investigations into possible trafficking of Ukrainian refugees. Of these cases, one was confirmed as human trafficking, and involved two child victims of sex trafficking. The government did not report any prosecutions or convictions of government employees complicit in human trafficking crimes; however, NPO reported an investigation into the director of a provincial labor office married to the owner of a job recruitment agency that was allegedly involved in the forced labor of foreign nationals in multiple factories. The director was dismissed from the labor office and the NPO's investigation was ongoing at the close of the reporting period.

The National Police maintained an anti-trafficking department with 11 officers, along with 16 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 nine regional anti-trafficking coordinators. Eleven NPO branches, 11 regional prosecutor's offices, and 33 district prosecutorial offices all had a trafficking expert to assist local prosecutors and who could assume responsibility for more complex cases. During the reporting period, the Ministry of Interior (MOI) published and distributed a manual developed by a working group of the national anti-trafficking advisory body for law enforcement and the judiciary with detailed information on the law's definition of trafficking, indicators and trends, rules on a comprehensive approach to victims, and best practices for prosecuting traffickers. The government continued to provide institutionalized training programs for police, border guards, prosecutors, judges, consular officers, asylum officers, social workers, crisis intervention center staff, and labor inspectors on various anti-trafficking issues including victim identification, principles of cooperation, and issues related to child victims of trafficking. Experts 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 officials focused on trafficking, both at the national and provincial levels, negatively impacted the government's

understanding of the complexity of the crime. Experts reported 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 and the low number of victims who self-identify as forced labor victims. 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.

NPO monitored all trafficking cases throughout the country that were classified as trafficking in the investigation stage. However, 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. NPO continued using a formal mechanism for law enforcement to refer discontinued or dismissed trafficking investigations and prosecutions for review to the prosecutor responsible for coordinating trafficking investigations. The government reported law enforcement referred two such cases in 2022, and both cases were under investigation at the end of reporting period; in 2021 police referred four discontinued or dismissed cases and the Border Guard referred one case to NPO – of these, NPO dismissed two cases and investigated three. Separately, NPO initiated an informal mechanism for civil society to refer potential cases for consideration; during the reporting period, civil society referred four cases to NPO that were under review at the close of the reporting period. The National Police participated in three large-scale international operations initiated by EUROPOL under the framework of the European Multidisciplinary Platform Against Criminal Threats, focusing on child trafficking, forced labor, and combating human trafficking in cases of sexual abuse, begging, or criminality.

PROTECTION

The government increased protection efforts. The government identified 141 victims (14 for sex trafficking, four for slavery-like practices, and 123 for labor trafficking, including four for forced begging), an increase from 94 in 2021, and 82 in 2020, but still less than the 221 victims identified in 2019. The majority of victims identified were foreign national men, including those from Colombia, Czech Republic, Guatemala, Mexico, Slovakia, Venezuela, and Vietnam. During the reporting period, MOI developed an NRM for the identification and referral of victims to care; at the close of the reporting period, the NRM was awaiting approval by the national anti-trafficking advisory body. The government reported all victims were offered services and/or referred to services by NGOs. Authorities referred 46 victims to care facilities, compared with 61 in 2021. The National Intervention-Consultation Center for Victims of Trafficking (KCIK), run by two government-funded NGOs, provided assistance to 254 potential victims (210 in 2021), including 29 victims of sex trafficking, 171 victims of forced labor (including three for forced begging and one for forced criminality), and 54 victims of other types of exploitation related to trafficking; 99 were female and 155 were male, and 231 were foreign victims. The National Police and Border Guard used SOPs to identify and refer victims; these SOPs included tools to identify child victims and potential victims during the asylum process and a list of vulnerable groups that border guards should screen for trafficking. Additional police and border guards were transferred from other regions of the country to the Polish-Ukrainian border crossings, the main transportation routes, and reception points to provide better protection of refugees from Ukraine, including through use of the SOPs for identification of victims. In response to an influx of third country nationals from the Middle East, Asia, and Africa attempting to cross the border from Belarus, the government issued a regulation in August 2021 permitting the Border Guard to return to Belarus any migrants who crossed the border irregularly. In October 2021, the government legalized the practice of these "pushbacks," allowing the government to withhold international protection for asylum-seekers; experts expressed concern this law violated asylum seekers' right to protection and authorities may have deported unidentified trafficking victims. During the reporting year, the pushbacks continued, although the Border Guard reported identifying two potential trafficking victims at the Poland-Belarus border. Police and prosecutors had previously acknowledged that authorities lacked the expertise to identify forced labor and child victims, particularly among unaccompanied children.

Although three regional labor inspection offices carried out inspections in response to complaints of potential human trafficking, as in the previous four years, labor inspectors did not identify any victims in 2022. Experts previously noted labor inspectors' challenges in determining whether an offense constituted a violation of workers' rights or forced labor. The National Labor Inspectorate (NLI) continued to distribute SOPs for labor inspectors on the identification and referral of labor trafficking victims to all regional labor inspection offices. The Ministry of Family and Social Policy (MFSP) conducted two training sessions for social workers focused on the identification of trafficking victims, 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 Polish and foreign national adult and child victims with medical and psychological care, shelter, legal counseling, welfare support, reintegration services, and referrals to orphanages and foster care for child victims. Non-governmental experts 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. KCIK operated two shelters for adult female victims, including one for women with children and a small shelter for men, and it rented apartments for victims who did not prefer shelters. The government allowed victims to seek employment and work while receiving assistance and to leave the shelters at will and unchaperoned; shelters and housing were available for victims with disabilities. Experts noted shelter capacity for male victims was insufficient given the increasing number of male labor trafficking victims. The government provided specialized shelter and housing to 61 victims in 2022 (54 in 2021). Victims also could receive general assistance (social, medical, psychological, and legal) in 167 crisis intervention centers operated and funded by local governments, 16 of which maintained staff trained on assisting trafficking victims; KCIK arranged accommodations for 96 victims using crisis centers and other locations (65 in 2021).

The government allocated the same amount in 2022 as since 2015, 1.1 million zloty (\$251,140), to two NGOs that run KCIK for victim services. All non-European Economic Area (EEA) victims were entitled to social welfare benefits, including crisis intervention assistance, shelter, meals, necessary clothing, and financial assistance. Victims from the EEA had access to the full scope of welfare benefits offered to Polish citizens if they could prove habitual residency. NGOs had previously reported some victims, particularly from Romania and Bulgaria, were unable to prove this through the required documentation. Legislation went into effect in January 2021 allowing law enforcement to issue certificates to potential victims from EEA countries, facilitating their access to welfare benefits; in 2022, KCIK provided assistance to five EEA nationals (three Slovaks, one Lithuanian, and one from Czech Republic), compared with 13 in 2022.

Authorities reported screening individuals in vulnerable populations, including individuals in commercial sex and migrants, during law enforcement operations. 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; 109 victims used this benefit in 2022, compared with 61 in 2021. 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, though both benefits were contingent upon cooperation with law enforcement; authorities granted residence permits to 21 foreign victims in 2022, compared with 16 in 2021. The government coordinated with an international organization to repatriate 48 foreign victims (15 in 2021). 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. A government-funded NGO provided legal assistance to 128 victims in 2022. 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. The National Prosecutor's Office reported the courts did not award restitution in 2022 or 2021, compared with one case in 2020. Victims also could receive compensation in civil suits; the government reported no compensation was awarded to trafficking victims in 2022.

PREVENTION

The government increased prevention efforts. MOI maintained the national advisory body – chaired by the Minister of Interior and included interagency and civil society representatives – tasked with evaluating the implementation of anti-trafficking efforts and projects, including the 2022-2024 NAP, and preparing annual reports. In past years, civil society had expressed concern this body lacked authority and could not compel government agencies to provide resources for anti-trafficking efforts. In January 2023, the Prime Minister approved the advisory body to be elevated to an interministerial team at the level of the Prime Minister. During 2022, the advisory body met once, and of its four working groups, one working group met five times and two met once. All provincial level teams met twice. In July 2022, MOI established an independent team responsible for monitoring the implementation of the NAP and the KCIK program and providing support for the work of the advisory team. For the fifth consecutive year, the government allocated 135,000 zloty (\$30,820) for the implementation of its 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 conducted an awareness campaign in 2022 targeting migrants at risk of being exploited in Poland; the government continued to distribute leaflets and posters in four languages to 60 sites around the country and displayed anti-trafficking messages on screens in airports and on the government's online visa application portal. The Polish embassy in Madrid also collaborated with the Spanish government on the distribution of digital pamphlets outlining the warning signs of potential exploitation. 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, at times, uncoordinated and inconsistent in their effectiveness. The Ministry of Justice (MOJ) provided 1.6 million zloty (\$365,300) for a three-year trafficking awareness project targeting young people and women in prisons. A government-funded NGO operated a 24-hour hotline for trafficking victims and witnesses, and conducted 4,334 consultations through this hotline. The government reported calls to the hotline led to victim identification; however, the hotline did not maintain statistics on how many calls were trafficking-related or resulted in investigations and victims identified.

In the weeks after the start of Russia's full-scale invasion of Ukraine, the government launched an additional information campaign consisting of leaflets and a social media broadcast. The leaflet also was used as an electronic poster, which was given to MOJ and posted on the Human Rights Ombudsman's website. The National Police launched a hotline dedicated to refugees fleeing the war, although NGO contacts report the number of calls related to human trafficking was very low. The government worked with an international organization to limit border access to credentialed humanitarian actors and local authorities, created and distributed informational leaflets with the hotline number, and provided anti-trafficking information on a government website. MOI, NPO, the Border Guard, and National Police actively participated in an international organization-led working group on the prevention of trafficking and protection of those fleeing Russia's war against Ukraine. The government also developed security alerts sent to all persons entering Poland from Ukraine, containing information about potential risks, victim assistance, and providing the numbers for the KCIK and police hotline. NGOs, international organizations, and law enforcement identified two trafficking victims among those fleeing the war. In March 2022, the government passed legislation that mandated all unaccompanied children entering Poland from Ukraine be provided a court-appointed temporary guardian authorized to represent the child and exercise custody over the child and the child's property; the legislation also required MFSP create a register of all unaccompanied children coming from Ukraine. Experts expressed concern at amendments to the law, which created a parallel foster care system for unaccompanied and separated minors from Ukraine outside the national system, which excluded all but the more severe cases from the Polish

national child protection system. MOI's working group under the advisory body developed a reference document for temporary guardians with guidance on mitigating potential child trafficking risks. The government also developed SOPs for addressing foreign national children crossing the Polish-Ukrainian border. In addition, in March 2022, the government granted Ukrainian citizens fleeing Russia's war against Ukraine 18-month residence permits; however, the law excluded individuals who had refugee status in Ukraine, stateless persons, and most other third country nationals who fled Ukraine and could not return to their countries of origin.

Local authorities could ban employers previously convicted of trafficking from hiring foreign nationals; the government did not report whether any entities were banned. The law prohibited recruitment fees for employment within Poland and abroad, but recruitment agencies could charge fees for four categories of expenses to secure work abroad: to cover transportation, visas, medical examinations, and translation of documents. NLI referred 72 job recruitment agencies to local authorities for operating illegally in 2022 (81 in 2021) and the government removed 32 job recruitment agencies from the official registry of legally operating recruitment agencies (33 in 2021). NLI conducted inspections of 494 job recruitment agencies in 2022 (495 in 2021). NLI reported an increase in worker "outsourcing," in which employers evade certain provisions of the law on temporary workers by "outsourcing" labor through recruitment agencies or other business entities. NLI expressed concern this may increase exploitation risks for migrant and temporary workers, and that "outsourcing" is not fully regulated in law nor is NLI able to apply administrative penalties in such instances. In November 2022, the Chief Labor Inspectorate trained 17 labor inspectors on combating and preventing trafficking, with a focus on forced labor. In response to Russia's war against Ukraine, NLI implemented a special operational strategy due to the increased inflow of foreigners into the labor market: this included educational initiatives, a social media campaign, trainings, and free legal advice in Ukrainian and Russian on legal employment. The government also implemented a special grant-distribution program for NGOs and labor-related institutions providing support to foreign workers; for 2022 and 2023, grants focused on helping those fleeing conflict. Polish law allowed foreign nationals with a combined residence and work permit to change employers or positions within a company without seeking a new permit; 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. In January 2022, the Council of Ministers adopted its first Government Procurement Strategy for the years 2022-2025; the strategy included prioritizing sustainable and innovative public procurement, under which the government must consider whether forced labor was used when deciding to grant a contract. During the reporting period, the government conducted two online seminars on due diligence in responsible business conduct, including preventing forced labor, which were viewed over 650 times. The government continued to utilize its NAP for implementing the United Nations Guidelines on Business and Human Rights for 2021-2024, which includes a focus on labor laws, rights, and forced labor prevention; according to NGOs, the NAP had not yet been useful in implementing the UN guidelines. 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 United Kingdom. Traffickers exploit women and children from South America and Eastern Europe – particularly Bulgaria, Romania, and Ukraine – in sex trafficking in Poland. Labor trafficking is the predominant form of trafficking in Poland and traffickers increasingly use coercion and fraud instead of physical violence or threats of violence; victims originate from Europe, Asia, Africa, and increasingly from Central and South America – particularly Colombia, Guatemala, and Venezuela. Traffickers 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. More than eight million people who transited Poland in their flight from Ukraine – including more than 1.5 million refugees, predominantly women and children – registered for temporary protection in Poland, and are particularly vulnerable to trafficking. Traffickers recruit Romanian men, women, and children, particularly from the Romanian Roma population, for forced begging in Poland; persons with disabilities are particularly vulnerable.