

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 investigating and prosecuting more suspected traffickers. The government adopted a new national action plan (NAP), and the government's first procurement strategy requiring authorities to ensure forced labor was not used in government contracts. The government identified and assisted more victims, enacted legislation increasing the penalties for trafficking crimes committed against those fleeing Russia's war on Ukraine, and enhanced protections for unaccompanied children. However, the government did not meet the minimum standards in several key areas. Labor inspectors did not identify any trafficking victims, and overall victim identification efforts remained inadequate. The government also did not increase resources for victim services, thereby constraining overall protection efforts. Authorities lacked a central mechanism to cross-reference and consolidate law enforcement statistics, which may have hindered the government's ability to track trafficking trends and effectively adapt policy.

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 forced labor and refer them to services. * Vigorously investigate and prosecute alleged trafficking crimes, particularly forced labor cases, and seek significant prison terms for convicted traffickers. * 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 penalized for crimes their traffickers compelled them to commit. * Improve central operational coordination and data collection for anti-trafficking activities. * Increase worker protections by eliminating recruitment fees charged to workers by labor recruiters and ensuring employers pay any recruitment fees. * 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 increased law enforcement efforts. Article 189a of Poland's penal code criminalized sex trafficking and labor trafficking and prescribed penalties 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 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. As a result of Russia's full-scale invasion of Ukraine and the resulting refugee crisis and refugees' heightened vulnerability to trafficking, in March 2022, the government enacted legislation increasing the penalties under Article 189a for trafficking crimes committed during Russia's war on Ukraine to between 10 to 15 years' imprisonment or 25 years' imprisonment for severe cases.

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 32 investigations under Article 189a (22 in 2020); nine were for sex trafficking, 11 for forced labor (including two for forced begging), and 12 were for unspecified forms of exploitation. Prosecutors initiated 57 investigations from cases referred by police and border guards (46 in 2020) and prosecuted 25 defendants under Article 189a (20 in 2020); 21 were for sex trafficking, one was for forced labor, and three were for unspecified forms of trafficking. The government also investigated 16 cases and prosecuted 16 defendants under Article 203 or Article 204.3, compared with 16 cases investigated and four defendants prosecuted in 2020. The National Prosecutor's Office (NPO) reported courts convicted 25 traffickers under Article 189a (compared with an unknown number of traffickers in 12 cases in 2020). Eleven were sentenced to less than three years' imprisonment, seven to three were sentenced to five years, and seven were sentenced to more than five years. The NPO reported the majority of victims identified in investigations were Polish citizens (318 out of 447), largely due to three new investigations authorities initiated, in cooperation with the United Kingdom (UK), focused on Polish citizens exploited in the UK for forced labor and social welfare fraud. The Border Guard launched an investigation that led to the identification of 40 victims from Colombia, Mexico, and Venezuela who were exploited for labor in the food and agriculture processing industry and in manufacturing. The government reported law enforcement efforts were not impacted by the pandemic; however, training opportunities for police were reduced due to pandemic-related restrictions.

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 and who could assume responsibility for more complex cases. During the reporting period, a working group of the national anti-trafficking advisory body created a manual for law enforcement and the judiciary with detailed information on the law's definition of trafficking, indicators and trends, and best practices for prosecuting traffickers. The government continued to provide institutionalized training programs for police, border guards, prosecutors, judges, consular officers, asylum officers, and labor inspectors on various anti-trafficking issues, fully or partially online due to the pandemic. In May 2021, the Ministry of Interior (MOI) organized two workshops on illicit financial activity related to human trafficking for police and border guard officers. 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 officials focused on trafficking, both at the national and provincial levels, negatively impacted the government's understanding of the complexity of

the crime. Observers 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, 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 non-Polish 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.

The 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. The 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. However, an NGO reported there was no formal mechanism for civil society to refer cases to the NPO for reconsideration. Police referred four discontinued or dismissed cases, and the Border Guard referred one to NPO (11 total in 2020); NPO agreed with authorities that three cases potentially involved trafficking (five in 2020), and two cases were dismissed. The government did not report any investigations, prosecutions, or convictions of government employees complicit in trafficking crimes. Authorities collaborated with Romanian authorities on a case involving Romanian children of Roma origin forced to beg in Poland. Authorities also coordinated with counterparts in other EU countries, including Germany, Lithuania, and the Netherlands, and with law enforcement in the UK. In late 2021, the National Police joined a European Multidisciplinary Platform Against Criminal Threats operation focused on an organized criminal group suspected of exploiting women, mainly from China, for commercial sex. The government obtained the extradition of two suspected traffickers residing in Germany.

PROTECTION

The government increased protection efforts. The government identified 94 victims (70 for labor trafficking, including one for forced begging, and 24 for sex trafficking), an increase from 82 in 2020 but still far less than the 221 victims identified in 2019. Authorities referred 61 to care facilities, compared with 39 in 2020; the government reported all victims were offered services, but some chose not to accept them. The National Intervention-Consultation Center for Victims of Trafficking (KCIK), run by two government-funded NGOs, provided assistance to 210 potential victims (166 in 2020), including 52 victims of sex trafficking, 87 victims of forced labor (including two for forced begging, two for forced criminal activity, and one for domestic servitude), and 71 victims of other types of exploitation related to trafficking; 115 were female, and 95 were male; and 159 were foreign victims, an increase from 109 in 2020. Due to pandemic-related restrictions, authorities conducted fewer operations to screen workplaces and commercial sex operations for potential victims, and training for police officers was limited. The National Police and Border Guard began using standard operating procedures (SOPs) to identify and refer victims that had been revised during the previous reporting period; these SOPs included tools to identify child victims and potential victims during the asylum process and a list of vulnerable groups that border guard officers should screen for trafficking. In response to an influx of third country nationals 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 “push-backs,” allowing the government to withhold international protection for asylum-seekers; observers expressed concern this law violated asylum seekers’ right to protection and authorities may have deported unidentified trafficking victims. During 2021, the Border Guard identified three potential trafficking victims attempting to enter Poland through the border with Belarus. The government signed an agreement with an international organization to implement a government- and EU-funded project to build capacity within the Border Guard to identify trafficking victims, particularly labor trafficking victims. Police and prosecutors had previously acknowledged that authorities lacked the expertise to identify forced labor and child victims, particularly among unaccompanied children. As in the previous three years, labor inspectors did not identify any victims in 2021. Observers previously noted labor inspectors’ challenges in determining whether an offense constituted a violation of workers’ rights or forced labor. One working group of the national anti-trafficking advisory body developed SOPs for labor inspectors on the identification and referral of labor trafficking victims; in December 2021, the government distributed the SOPs to all district labor inspection offices. The MOI funded training for Polish national airline crews on trafficking indicators and a reporting mechanism developed by the airline. The Ministry of Family and Social Policy conducted two virtual 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. 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. Legislation passed in March 2022 mandated that 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 the government to create a register of all unaccompanied children coming from Ukraine, to be run by the Ministry of Family and Social Policy. 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 unchaperoned and at will; shelters and housing were available for victims with disabilities. Observers 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 54 victims in 2020 (42 in 2020). Victims also could receive general assistance (social, medical, psychological, and legal) in 171 crisis intervention centers operated and funded by local governments, 17 of which maintained staff trained on assisting trafficking victims; KCIK arranged accommodations for 65 victims using crisis centers and other locations (23 in 2020).

The government allocated 1.1 million zloty (\$271,400) to two NGOs that run KCIK for victim services; funding has remained stagnant since 2015. The government also allocated 80,000 zloty (\$19,740) to train welfare assistance personnel on identification of victims and provision of assistance to trafficking victims and witnesses, the same amount as in 2020. Experts said limited government funding for victim assistance constrained service provision, particularly outside of Warsaw and Katowice. All non-European Economic Area (EEA) victims were entitled to social welfare benefits, including crisis intervention assistance, shelter, meals, necessary clothing, and financial assistance; in the first six months of 2021, 21 non-EEA national victims received assistance, compared with 16 in the first six months of 2020 (26 total in 2020). 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 2021, KCIK provided assistance to 13 EEA nationals (10 Bulgarians, one Romanian, and two Slovaks), compared with six in 2020.

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; 61 victims used this benefit in 2021, compared with 11 in 2020. 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 16 foreign victims in 2021, compared with 15 in 2020. The government repatriated one foreign victim to Bulgaria and coordinated with an international organization to repatriate 15 foreign victims (two in 2020); a government-funded NGO repatriated one foreign victim. 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 100 victims in 2021. 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. Courts did not award restitution in 2021, compared with one case in 2020. Victims also could receive compensation in civil suits; the government did not report if any victims filed such suits.

PREVENTION

The government increased prevention efforts. The MOI maintained an advisory body, chaired by the Minister of Interior and including interagency and civil society representatives, tasked with evaluating the implementation of anti-trafficking efforts and projects, including the NAP, 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 once, and its four working groups met regularly. The

government reported, due to pandemic-related restrictions, internal reorganization of the MOI's anti-trafficking office, and the migration crisis on the border with Belarus, the government only organized one meeting of provincial-level interagency anti-trafficking teams during the reporting period. In November 2021, the Council of Ministers adopted a new NAP for 2022-2024. For the fourth consecutive year, the government allocated 135,000 zloty (\$33,310) for the implementation of the NAP. The 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 targeting migrants at risk of being exploited in Poland; the government distributed 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. 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 inconsistent in their effectiveness. A government-funded NGO operated a 24-hour hotline for trafficking victims and witnesses, which received 7,923 calls (9,504 in 2020). 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. An NGO reported a growing number of potential victims contacted the hotline directly through social media or private messaging applications. To prevent trafficking among those fleeing Russia's war on Ukraine, 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.

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, 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. The National Labor Inspectorate (NLI) reported 81 job recruitment agencies to local authorities for operating illegally (54 in 2020); the government removed 33 job recruitment agencies from the official registry of legally operating recruitment agencies (19 in 2020). Due to pandemic-related restrictions, non-emergency NLI inspections were carried out remotely or via a hybrid format from January to May 2021. The NLI conducted 495 inspections of job recruitment agencies (429 in 2020) but did not identify any potential trafficking victims. The NLI participated in an EU information campaign focused on raising awareness about the rights of seasonal workers, obligations of employers, and counseling services for seasonal workers; several NLI regional branches operated a hotline to provide advice on seasonal work. 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. The government promoted its 2020 manual for

employers on identifying and preventing forced labor in businesses and supply chains, and the Ministry for Funds and Regional Policy published a special toolkit on its website with questionnaires to assist employers in identifying potential cases of forced labor. The government revised the law to allow workers from Armenia, Belarus, Georgia, Moldova, Russia, and Ukraine to work in Poland without a work permit for up to two years (previously six months); experts predicted this change would provide stability for migrant workers from these countries and lessen their vulnerability to trafficking. In 2021, the government passed legislation allowing foreign nationals with a combined residence and work permit to change employers or positions within a company without seeking a new permit; the law entered into force in January 2022. 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 March 2022, the government granted Ukrainian citizens fleeing Russia's war on Ukraine 18-month residence permits; however, the law excluded individuals who had refugee status in Ukraine, stateless persons, and other third country nationals who fled Ukraine and could not return to their countries of origin. The MOI participated in a Council of the Baltic Sea States project to combat labor trafficking through various efforts, including by strengthening institutional frameworks and introducing relevant legislation, enhancing cooperation with the private sector, and promoting labor protection in key sectors and industries. 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 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 South America. 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. 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. More than three million refugees from Ukraine, predominantly women and children who are fleeing Russia's war on Ukraine, have crossed the Polish border seeking sanctuary and are vulnerable to trafficking. Traffickers recruit Romanian men, women, and children, particularly from the Roma population, for forced begging in Poland; persons with disabilities are particularly vulnerable.