

AUSTRIA (Tier 1)

Austria is a destination and transit country for women, men, and children subjected to trafficking in persons, specifically forced prostitution and forced labor. Victims originate from Eastern Europe, Africa, and Asia. Austrians reportedly spent \$4.3 billion on domestic workers in 2009; exploitation is believed to be a significant problem in this sector. Some forced domestic servitude involves diplomats, primarily from the Middle East, who enjoy diplomatic immunity. Forced labor occurs in the agricultural, construction, restaurant, and tourism industries. Forced begging involving Roma children and others from Eastern Europe continued to be a problem. An NGO that works primarily with Nigerian trafficking victims reported traffickers abuse the legal prostitution and asylum processes to control their victims and keep them in Austria legally.

The Government of Austria fully complies with the minimum standards for the elimination of trafficking. The government identified and referred an increased number of trafficking victims for assistance, and police demonstrated an increasingly victim-centered approach to law enforcement efforts. In an attempt to prevent involuntary domestic servitude, the government amended its regulations in 2009 to require all foreign domestic workers to appear in person at the Ministry of Foreign Affairs to receive information on how to get help if they become victims of forced labor. It hosted a UN event to notify foreign embassies in Austria about this new requirement. The Austrian government, however, did not adequately punish convicted trafficking offenders, and it did not employ systematic procedures for the identification and referral of victims. Also, some child victims of trafficking were penalized for unlawful acts committed as a direct result of being trafficked.

Recommendations for Austria: Aggressively prosecute traffickers to ensure a majority of trafficking offenders serve some time in prison; establish a systematic identification and referral process throughout Austria, including in immigrant reception centers; establish specialized care for children who are victims of trafficking; establish services for men who are victims of forced labor; take measures to improve public awareness of trafficking in Austria and reduce demand; consider amending 104(a) to increase penalties for trafficking cases, including cases involving children; and provide specialized training for law enforcement and social workers involved in the rehabilitation of victims.

Prosecution

The Austrian government demonstrated moderate efforts to prosecute and convict traffickers during the reporting period. However, over half of convicted traffickers spent 12 months or less in jail; one-third of convicted traffickers received no jail time. Article 104(a) of the Austrian Criminal Code prohibits trafficking for both sexual exploitation and forced labor. Prosecutors typically use Articles 104(a) and 217 of the Criminal Code, which prohibit cross border trafficking for the purpose of prostitution, as well as Article 114 of the Aliens Police Act, which contains provisions on alien smuggling, to prosecute traffickers. Penalties prescribed in Article 104(a) and Article 114 range up to 10 years' imprisonment, while penalties prescribed in Article 217 range from six months' to 10 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The government reportedly prosecuted and convicted 67 trafficking offenders in 2008; however, it only reported sentences for offenders in which trafficking was the leading charge. In 2008, the government

convicted 18 trafficking offenders, a decrease from 30 such convictions in 2007. Sentences for three of these offenders were between one and three years. The government completely suspended the sentences of four offenders and partially suspended nine, resulting in sentences between one and 12 months in jail. Two other convicted traffickers paid fines. Local observers report a lack of anti-trafficking expertise among prosecutors and judges. According to one NGO, during a case in 2009, a victim testified five separate times, but the suspect was subsequently released. The Austrian government did not disaggregate its data to demonstrate it prosecuted or convicted labor trafficking offenders.

Protection

The Government of Austria sustained its efforts to protect identified victims of trafficking during the reporting period. The government did not yet, however, employ formal and systematic procedures for the identification and referral of victims within labor or legal and illegal prostitution sectors. Police in Vienna proactively referred trafficking victims for care and collaborated with NGOs to improve their ability to spot indicators of sex trafficking, but referral was *ad hoc* and reliant on certain victim-sensitive officers. NGOs reported police effectively partnered with them on cases to ensure trafficking victims adequate recovery time to become more effective witnesses. It continued to fund the country's only specialized anti-trafficking NGO, which provided open shelter and assistance to female victims in Vienna. This shelter was at its full capacity of 18 beds throughout 2009. The Austrian government provided \$828,000 to this NGO in 2009, compared with \$542,700 in 2008. It provided counseling and other services to 182 trafficking victims in 2009; police referred approximately 90 of these victims, compared with 60 referrals from the previous year. Fifty-nine victims received shelter from the government-funded NGO; all victims received assistance in the form of social and legal counseling in their native language, German-language classes, computer courses, and health prevention. The government provided foreign victims of trafficking with legal alternatives to their removal, and in April 2009 passed the Residence and Settlement Act, which listed victims of trafficking as a special category with a right for temporary resident status. The government encouraged victims to assist with investigations and prosecutions of traffickers and an NGO reported a high rate of victims who willingly cooperated on their cases. Furthermore, police provided information on potential female victims of forced prostitution to NGOs when these victims appeared reluctant to disclose elements of their exploitation to law enforcement. According to one NGO, the only systematic regulation by the government within Austria's sizable, legal commercial sex sector consisted of weekly health checks for sexually transmitted diseases and periodic police checks of registration cards. In 2009, the government began training labor inspectors to increase identification of forced labor trafficking.

The City of Vienna's specialist center for unaccompanied minors accommodated 121 children in 2009, some of whom were reported to be victims of trafficking. This center reportedly facilitated the repatriation of children subjected to forced prostitution and forced begging during the reporting period. However, according to local observers, this center has limited capacity to accommodate trafficked children, does not function as an anti-trafficking NGO, and there was little official follow up or assurances made to ensure a safe return or protection from re-trafficking. Furthermore, the center only accommodated children who have been apprehended by the police, and is an open facility, allowing traffickers continued access to their victims. According to local experts, authorities, especially outside of Vienna, do not identify many child

trafficking victims and there are no specialized services or targeted outreach efforts to identify potential children who are trafficked throughout Austria. The government reportedly ensured identified victims were not punished for unlawful acts committed as a direct result of being trafficked; however, during the year at least some child sex trafficking victims were penalized for unlawfully engaging in prostitution.

Prevention

Austria continued its proactive efforts to prevent trafficking through public awareness raising activities in 2009. It continued to subsidize several TV programs about trafficking and hosted international conferences aimed at raising awareness of trafficking. It funded campaigns to educate clients about the possible presence of trafficked women in the prostitution sector, and to inform women in prostitution about their rights under national law. It accomplished this by distributing information brochures for use by police and NGOs on trafficking, and by police and NGOs maintaining an active presence in well known “red light districts.” The Interior Ministry produced and distributed a folder to increase law enforcement’s awareness about human trafficking and to improve victim identification. The folder lists contact numbers for anti-trafficking NGOs and government offices responsible for victim protection. The government also subsidized a leaflet produced and distributed by an NGO offering support to victims. According to ECPAT Austria, approximately 4,500 Austrians contribute to the global demand for child sex tourism. Austrian law provided extraterritorial jurisdiction over Austrian nationals who travel abroad to engage in child commercial sexual exploitation. Austria continued a campaign to encourage tourists and travel agencies to report cases of child sex tourism during the reporting period. It did not report any investigations or prosecutions of such activity.

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