

AUSTRIA (Tier 1)

Austria is a destination and transit country for men, women, and children subjected to sex trafficking and forced labor. Victims originate from Eastern Europe, Africa, and Asia. Some forced domestic work occurs at the hands of foreign diplomats from Asia, the Middle East, and Africa working in Austria. Forced labor also occurs in the agricultural, construction, and catering sectors. During the year, Chinese men were allegedly subjected to forced labor in the restaurant sector. Authorities cited an increase in Chinese women in massage parlors suspected to be victims of trafficking. Roma children and other children from Eastern Europe remain vulnerable to forced begging. Austrian police reported over 800 people in organized begging rings in 2012; officials observed the majority are subjected to trafficking. Police report trafficking offenders' increasing use of social media to organize their operations, recruit victims, and solicit customers. There were reports that during 2012, there were approximately 200 registered Nigerian women asylum seekers who were possible trafficking victims. In previous years, an NGO that assists Nigerian trafficking victims reported traffickers abuse the legal prostitution and asylum processes in Austria to control their victims.

The Government of Austria fully complies with the minimum standards for the elimination of trafficking. The government continued to identify and refer trafficking victims for victim-centered assistance in partnership with NGOs. It implemented a new law that allows trafficking victims unlimited access to the Austrian labor market, issuing a significant number of these permits to facilitate victims' recovery and rehabilitation in 2012. The government demonstrated proactive efforts to identify and prevent domestic servitude in diplomatic households. It reported two cases of domestic servitude perpetrated by diplomats in 2012. However, anti-trafficking experts within the country increasingly criticized the judiciary's lenient sentences for trafficking offenders. The government's conviction rate for trafficking offenders charged under its trafficking law declined during the reporting period.

Recommendations for Austria: Aggressively prosecute and convict trafficking offenders to ensure that more of them receive sentences that are proportionate to the gravity of the crime; monitor human trafficking trial procedures and encourage prosecutors to give more serious attention to trafficking cases by appealing non-custodial and excessively lenient sentences for trafficking offenders; follow through on plans to increase statutory penalties for trafficking offenses; step up training efforts for prosecutors and others in the judicial sector to encourage aggressive prosecution of trafficking cases; step up training and local outreach efforts to proactively identify trafficking victims among children in prostitution and men working in agriculture, construction, and other sectors where foreign migrants are vulnerable to exploitation; continue to ensure victim protection organizations have access to potential trafficking victims in brothels in the legal sector; establish and formalize a nationwide trafficking identification and referral system, including in reception centers for asylum seekers; continue to proactively refer child trafficking victims, including minors in prostitution, to care and ensure they are not treated as offenders; ensure adequate services are available for men who are victims of trafficking; continue a targeted campaign for clients in the prostitution sector to alert them to the links between prostitution and trafficking.

Prosecution

The Austrian government sustained a vigorous level of investigation of trafficking cases and referred these cases for prosecution in 2012. However, during the year, experts increasingly criticized the judiciary's lenient sentencing of trafficking offenders in Austria. Overall convictions for trafficking offenders declined. The government prohibits both sex trafficking and labor trafficking under Article 104(a) of the Austrian criminal code, but continued to use primarily Article 217, which prohibits the transnational movement of persons for prostitution, to prosecute suspected traffickers. Paragraph 1 of Article 217 prohibits the movement of people into Austria for prostitution and Paragraph 2 prohibits the use of deception, threats, or force in the transnational movement of persons for prostitution. Article 104 criminalizes "trafficking for the purpose of slavery" and prescribes penalties ranging from 10 to 20 years in prison. Penalties prescribed in Article 104(a) 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 45 offenders in 2012; 38 under Article 217; six under Article 104(a); and one offender under Article 104. Austrian courts convicted eight sex trafficking offenders and one forced labor offender in 2011, the most recent year for which sentencing data was available. This represents a continued decline from 14 convicted trafficking offenders in 2010 and 32 convicted trafficking offenders in 2009 under the trafficking statutes, although trafficking is often prosecuted under other statutes. The majority of trafficking offenders convicted in 2011 were prosecuted under Article 217. One offender was sentenced to over five years' imprisonment, four were sentenced to one to five years' imprisonment; two received partial suspended sentences, one received a fully suspended sentence; and six received partially suspended sentences resulting in jail time of one month to one year. One offender convicted under Article 104(a) received a sentence of one to three months imprisonment. In January 2013, courts sentenced four labor trafficking offenders to partially suspended sentences ranging from 27 to 36 months' imprisonment. Press accounts reported the victims were forced to work in Chinese restaurants in Carinthia until they repaid their smuggling debts. The offenders were charged with violations of customs, social security, and other laws.

Although Paragraph 1 of Article 217 does not require illegal means such as deceit or force, approximately half of those convicted under this statute are trafficking offenders; in the other half, trafficking elements were present but evidence was insufficient to prove in court. On October 19, 2011, the Supreme Court upheld a trafficking conviction under Article 217(1) for recruiting women in Bulgaria in order to exploit them in a brothel; the trafficker took the majority of their earnings. In October 2012, the Supreme Court upheld a trafficking conviction under 217(1) for hiring an intermediary to recruit Romanian women to work in a brothel; the court found the victims' travel documents were taken away until they had repaid travel costs to Austria. In October 2012, the Innsbruck provincial court convicted two Hungarian women for child sex trafficking under Article 217; one was given a 21-month prison sentence (14 months non-suspended), and her accomplice received a five-month suspended prison sentence and a fine. The women were accused of having lured a 17-year old Hungarian girl to Austria and exploited her in prostitution. On January 17, 2012, the Graz Provincial Criminal Court convicted a Bulgarian to a 10 month partially suspended prison sentence (one month not suspended) under Article 217. The accused brought four Bulgarian women to Austria, confiscated part of their earnings, and subjected them to beatings and threats. In February 2013, a court in Styria convicted four persons under Article 217. One offender received an 18-month prison sentence, of

which 13 months were suspended. The court found he recruited women from Romania, made them dependent, and then forced them into prostitution. During the year, country experts expressed increasing concerns that lenient penalties for serious trafficking offenders are not sufficient deterrents to trafficking in Austria and may dissuade future victims' from testifying against their traffickers.

The government took steps to address trafficking perpetrated by diplomats posted in Austria, despite challenges that diplomatic immunity posed to the prosecution of these offenders. The government reported domestic workers increasingly applied for tourist visas, in an attempt to evade government scrutiny. The government reported that a small number of foreign diplomats suspected of subjecting domestic workers to forced labor left the country in 2012 due to pressure from the Austrian government, which included requiring diplomats suspected of trafficking to renew their diplomatic identification cards every three months. The government did not prosecute any acts of trafficking-related complicity in 2012.

Protection

The Government of Austria continued to deliver comprehensive, victim-centered assistance to female victims of sex trafficking and domestic servitude in partnership with NGOs in 2012. It proactively identified trafficking victims and implemented its new policy of granting trafficking victims access to the Austrian labor market. The government, in coordination with NGOs, identified 242 trafficking victims in 2012, compared to 251 identified in 2011. The government funded a specialized anti-trafficking NGO that provided housing, psycho-social, and legal services in Vienna to female trafficking victims; victims provided such shelter were not detained involuntarily. The government did not provide specialized services for male trafficking victims in 2012. The government provided the equivalent of approximately \$815,000 to this NGO in 2012, compared with the equivalent to approximately \$744,000 in 2011. During the year, the NGO provided counseling, outreach, and other assistance services, including responsible repatriation, to all 242 trafficking victims. The government reported it provided foreign victims of trafficking with legal alternatives to their removal through its 2009 Residence and Settlement Act, and reported it issued 12 new residency permits to trafficking victims under Article 69a in 2012 and 23 extensions in 2012. Residence permits are generally granted for a period of one year. Under the July 2011 amendment to the Law on Foreigners, the government granted trafficking victims who hold residence permits unconditional access to the Austrian labor market. The government reported granting 111 residence permits to trafficking victims under the "red-white-red card" immigrant program between July 2011 and October 2012. During the reporting period, an NGO estimated approximately four victims of domestic servitude were identified in the residences of Asian, Middle Eastern, and African diplomats working in Austria. The government did not report the extent of care to male victims of labor trafficking in 2012.

During the year, human rights experts, including the Austrian chapter of Amnesty International, cited inadequate protections for foreign trafficking victims in the country, indicating victims are under constant threat of deportation, and victims who agree to testify in court against their traffickers are rarely granted the right to stay in Austria. An NGO that specializes in providing assistance to Nigerian trafficking victims reported that some criminal investigations against trafficking offenders for Nigerian victims are dismissed or closed prematurely, despite the

availability of victim testimony. Further, the 2011 Council of Europe's Group of Experts on Action against Trafficking of Human Beings (GRETA) report for Austria noted previously that potential victims of child trafficking are sometimes treated as offenders and arrested for theft, drug trafficking, or prostitution-related offenses. The Federal Criminal Police reported it made efforts to assess the existence of any trafficking links to children who committed property crimes, but did not find that any children arrested for prostitution or other offenses were subsequently identified as trafficking victims and referred for care.

The government's regulation of Austria's sizable, legal, commercial sex sector included weekly health checks for sexually transmitted infections and periodic police checks of registration cards. In 2012, the police continued screening women in prostitution for trafficking indicators using various manuals on trafficking and victim identification — including a pocket card developed in coordination with NGOs — that listed the main indicators for identifying victims of trafficking. During the year, the police rescued an underage Romanian girl subjected to trafficking in regulated legal brothels in Graz and Klagenfurt. She was referred to an NGO for care and assistance. The government encouraged victims to assist with investigations and prosecutions. The government reported that 50 trafficking victims assisted in the prosecution of their traffickers in 2012. Most trafficking victims declined to cooperate with authorities due to fears of retaliation. The government funded the city of Vienna's specialist center for unaccompanied minors; however, the center did not identify any child victims of trafficking in 2012. Although the government reported that it had a policy that identified victims should not be punished for unlawful acts committed as a direct result of being trafficked, an NGO reported some Nigerian trafficking victims continued to be deported.

Prevention

The Government of Austria sustained strong efforts to prevent domestic servitude within diplomatic households, requiring 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. In addition, the government required diplomatic employers of domestic workers to provide evidence of direct salary transfers to accounts held in the domestic worker's name and required domestic workers to obtain their own ATM cards. During the year, authorities pointed to an increased incidence of diplomatic household workers requesting tourist visas rather than registering as diplomatic staff in order to circumvent the government's increased scrutiny of diplomatic personnel employing domestic workers. On March 20, 2012, the government adopted its third national action plan on combatting trafficking, covering the period of 2012-2014. The government published an assessment on the implementation of its 2009-2011 national action plan during the previous reporting period. However, it did not publish or disseminate a review of its anti-trafficking efforts in 2012. The government continued its series of school exhibitions to sensitize Austrian youth to sex trafficking and ran an anti-trafficking hotline. Austria continued a campaign to encourage tourists and travel agencies to report cases of child sex tourism. The government did not undertake any awareness campaigns to reduce the demand for commercial sex acts in 2012, but did conduct awareness campaigns to sensitize clients of prostitution about sex trafficking. The government funded courses conducted by an anti-trafficking NGO to sensitize troops prior to their deployment on peacekeeping missions.