

2012 Trafficking in Persons Report

Moldova - Tier 2

Moldova is a source and, to a lesser extent, a transit and destination country for women and girls subjected to sex trafficking, and for men, women, and children subjected to conditions of forced labor. Moldovan women are subjected to forced prostitution in Turkey, Russia, Cyprus, the United Arab Emirates (UAE), Bulgaria, Kosovo, Israel, Indonesia, Malaysia, Lebanon, Italy, Greece, Ukraine, the Czech Republic, Romania, Poland, Slovenia, Spain, Tajikistan, and Ukraine. Men, women, and children are subjected to conditions of forced labor in Russia, Ukraine, Turkey, UAE, Israel, Greece, and the United States in the construction, agriculture, and service sectors. Men, women, and children are also subjected to conditions of forced labor and sexual exploitation in Slovenia, Spain, the Netherlands, and Ukraine. Children from Moldova are subjected to conditions of forced begging in some neighboring countries. Victims of forced prostitution found in Chisinau include Ukrainian women and Moldovan girls and women from rural areas. Moldovan men and women are subjected to forced labor in Moldova. Moldovan victims of trafficking have been subjected to re-trafficking after their return to Moldova from foreign countries. Victims from Moldova are often recruited by individuals they trust. In the past several years, there have been reported incidents of men from the United States, the United Kingdom, Germany, Italy, Greece, Norway, and possibly Turkey traveling to Moldova for the purpose of child sex tourism. The small breakaway region of Transnistria in eastern Moldova is outside the central government's control and remained a source for victims of both forced labor and forced prostitution.

The Government of Moldova does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government has made progress over the past year in addressing the protection of victims and the prevention of trafficking. Specifically, it increased the participation of NGOs in law enforcement investigations and made special provisions to protect child trafficking victims. The government also increased funding to its primary shelter and offered services to victims with physical and mental disabilities. The government expanded its national referral system (NRS), a program lauded by NGOs and viewed as a model for other countries in the region. In addition, the government raised awareness through high-level attention to the issue and numerous public campaigns. Law enforcement started to investigate and prosecute forced labor crimes. However, the government did not show sufficient progress in addressing widespread complicity in trafficking by law enforcement and other public officials. Reports of widespread corruption in the police and judicial system persisted and no officials were convicted for trafficking-related offenses. Furthermore, despite increased prosecutions in comparison to the previous year, the number of convictions declined and the proportion of convicted offenders receiving prison sentences declined as well. The government provided inadequate witness protections for some victims waiting to testify in court.

Recommendations for Moldova: Demonstrate vigorous efforts to investigate, prosecute, and convict government officials complicit in trafficking, and seek criminal prosecution and conviction of any guilty officials; ensure that convicted trafficking offenders serve time in

prison; increase investigation, prosecution, and conviction of labor trafficking offenses; train investigators, prosecutors, and judges in applying human trafficking laws to forced labor cases; increase the number of prosecutors assigned to the anti-trafficking section of the Prosecutor General's Office; further improve child trafficking victim protection by continuing to encourage law enforcement officials, in both urban and rural areas, to consult with NGO experts during the victim interview process; increase the safety of victims prior to testifying by increasing security at shelters, decreasing delays in court hearings, increasing prosecutions of witness tampering, and relocating witnesses when warranted; improve victims' awareness of and ability to obtain restitution from trafficking offenders; clarify the rules and procedure for the provision of residence permits to trafficking victims; reinstitute inspections of regional national referral commissions and revitalize inactive ones; continue to improve cooperation between local anti-trafficking civil society groups and local law enforcement; continue efforts to provide anti-trafficking training to law enforcement and other government officials, including members of the judiciary; and use measures to reduce the demand for commercial sex, such as conducting awareness activities that target potential consumers of prostitution.

Prosecution

The Government of Moldova demonstrated inadequate anti-trafficking law enforcement efforts during the reporting period. Of particular concern, it demonstrated inadequate efforts to prosecute, convict, or criminally punish government employees complicit in human trafficking. The government prohibits all forms of trafficking through articles 165 and 206 of its criminal code, which prescribe penalties of five to 20 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. An NGO reported that Moldovan prosecutors frequently reclassified cases of labor trafficking from articles 165 and 206 to article 168, which also criminalizes forced labor. Article 168, however, prescribes lighter penalties of a maximum of only three years' imprisonment and the possibility of probation or dismissal of the case if the parties achieve reconciliation. Regional investigators, also lacking familiarity with trafficking laws, frequently applied the more lenient forced labor law to labor trafficking cases. The government reported 135 trafficking investigations in 2011, down from 161 reported in 2010. Authorities reported prosecuting 79 suspected trafficking offenders in 2011, an increase from 66 suspected offenders in 2010. However, the government convicted only 22 trafficking offenders in 2011, reflecting a significant decrease from the 47 trafficking offenders convicted in 2010. The government reported that approximately one-quarter of its prosecutions in late 2011 and early 2012 were labor trafficking cases, a notable increase from 2010 when the government had no labor trafficking prosecutions or convictions. Moreover, the government convicted one individual for forced labor in July 2011, although the court suspended the convicted offender's sentence. In 2011, the Moldovan government indicted five suspects involved in a child sex tourism ring uncovered in 2010.

Despite promises to establish a national trafficking statistics database, the government has made little progress in doing so. While Moldovan law provides explicit sentencing guidelines for traffickers, which are consistent with international standards, the judiciary often applies sentences that do not correspond with the severity of the crime, and traffickers have regularly escaped with fines or suspended prison terms. In 2011, 10 out of 22 convicted offenders were

prescribed prison sentences, which ranged from four years and eight months to 11 years' imprisonment. The remaining 12 convicted offenders received suspended sentences or paid a fine and did not serve time in prison. Multiple individuals convicted of trafficking in previous years were acquitted on appeal in 2011, at times without the court issuing a written opinion explaining its decision. The government continued to assign five prosecutors to focus solely on investigating and prosecuting trafficking cases. The government provided anti-trafficking training in the police academy curriculum that is mandatory for police officers and investigators; it also held two anti-trafficking trainings for more than 50 judges and prosecutors. During 2011, law enforcement officials worked with counterparts in Greece, Spain, Russia, Poland, Romania, and Ukraine to investigate transnational cases of human trafficking.

Government complicity in human trafficking remained a significant concern and no government officials were convicted for trafficking-related complicity in 2011. The government is currently prosecuting two high-level government officials for trafficking-related complicity, an increase from last year when there were no prosecutions against public officials. However, the Government of Moldova has provided very limited information on other cases against public officials moving from investigation to trial. Some anti-trafficking experts noted concerns of complicity in human trafficking cases within the judicial branch. For example, NGOs have reported judges giving reduced sentences in exchange for monetary bribes, as well as judges supporting certain political parties in exchange for political protection. Due to low resources for victim protection and endemic delays in court hearings, victims often receive threats or bribes to change their stories. The OSCE also reported that trafficking offenders had threatened some victims' lawyers.

Protection

Moldova made modest progress in improving its efforts to ensure that victims of trafficking received access to protections during the reporting period. The government and IOM, which worked together in implementing the NRS, identified 98 victims in 2011, compared to 139 in 2010. This represents a three fold reduction in the number of victims identified by IOM and the government since 2006. The NRS expanded to four more regions in 2011 and now covers all 32 regions in the country. Each region has a multidisciplinary team composed of representatives from the police, NGOs, and care providers that is tasked with identifying and assisting trafficking victims and persons vulnerable to trafficking. In 2011, the government allocated the equivalent of \$67,000 to a primary shelter operated jointly by the government and IOM for repatriated and internal adult and child victims of trafficking, compared with the equivalent of \$48,000 in 2010. The shelter provided temporary shelter, legal and medical assistance, psychological counseling, and vocational training to 67 trafficking victims in 2011. Victims are not detained in the shelter; they are permitted to freely enter and leave. The national government provided the equivalent of an additional \$154,947 to four regional rehabilitation centers that provided trafficking victims with long-term assistance. The government provided cash benefits to 65 victims in 2011, up from 63 in 2010. Increasingly, local governments also provided assistance to trafficking victims and people vulnerable to trafficking through limited funding, specialized personnel, and rent-free facilities and utilities given to NGOs and shelters. For instance, the city of Balti allocated the equivalent of over \$45,155 to a crisis center that provides care to a variety of people in need, including victims of trafficking. The Department for

Victim and Witness Protection reported that it accommodated three trafficking victims in its program.

The government encouraged all victims to assist law enforcement with trafficking investigations and prosecutions, and did not make assistance contingent upon their cooperation; however, a draft amendment to the Law on Foreigners would require foreign victims in Moldova to participate in the criminal case as a precondition to receiving a residence permit. Although general mistrust of the police remained high, 131 victims cooperated with law enforcement in 2011, compared with 169 victims in 2010. Moldovan law enforcement demonstrated efforts to protect and assist child victims of trafficking by more consistently involving NGO service providers early in the investigative process and adopting victim-centered interview techniques. For example, a NGO said that its "children's room" was used by Moldovan police to interview 24 child trafficking victims in the presence of an NGO psychologist. According to IOM, 11 trafficking victims with physical and mental disabilities were assisted in 2011, and the government provided to care facilities with all of the necessary equipment for victims with special needs. The government also provided training for border guards to identify potential victims, though border guards reportedly identified 29 potential victims of trafficking in 2011, down from 83 victims in 2010.

Prevention

The government increased its efforts to prevent human trafficking during the reporting period. The majority of outreach and trafficking awareness efforts by the government were conducted in close coordination with NGOs at the national and regional levels. The government also raised public awareness of trafficking through visible high-level attention and media interaction on the issue. NRS commissions set up at the regional level usually met on a regular basis to deal with trafficking issues, including organizing public awareness events. The OSCE praised this system's structure for its role in preventing trafficking and assisting identified victims. The Ministry of Labor, Social Protection, and Family trained 185 members of these regional commissions in 2011; however, after inspecting 16 regions in 2010, the ministry conducted no inspections in 2011. Moldovan government officials shared best practices with a number of regional neighbors through bilateral meetings, conferences, and trainings. In 2011, the Center for Combating Trafficking in Persons organized 30 workshops in high schools, vocational schools, and universities to raise awareness about trafficking. The Ministry of Education facilitated an anti-trafficking conference attended by 300 students, a roundtable on prevention for 70 vocational schools, and three different classes on trafficking, collectively attended by 750 students. Local governments advertised the existence of victim hotlines. The government's national action plan concluded in 2011, but the National Committee for Combating Trafficking in Persons is currently analyzing its results and developing a new plan that will launch in spring 2012. The government did not undertake steps to reduce the demand for commercial sex acts. In March 2012, the government announced it would implement a code of conduct for businesses in its tourist industry, compelling them to notify travelers of Moldova's laws against the sexual exploitation of children.

Each TIP Report narrative contains specific recommendations for a government to consider implementing over the coming year. In addition to the below country-specific recommendations within the TIP Report narrative, the Department of State will provide your government with an action plan that is derived from these recommendations. Both the action plan and accompanying recommendations are aimed at providing countries with guidance related to the minimum standards outlined in the Trafficking Victims Protection Act; these standards are generally consistent with the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the "Palermo Protocol").

- A. Demonstrate vigorous efforts to investigate, prosecute, and convict government officials complicit in trafficking, and seek criminal prosecution and conviction of any guilty officials.
- B. Ensure that convicted trafficking offenders serve time in prison.
- C. Increase investigation, prosecution, and conviction of labor trafficking offenses.
- D. Train investigators, prosecutors, and judges in applying human trafficking laws to forced labor cases.
- E. Increase the number of prosecutors assigned to the anti-trafficking section of the Prosecutor General's Office.
- F. Further improve child trafficking victim protection by continuing to encourage law enforcement officials, in both urban and rural areas, to consult with NGO experts during the victim interview process.
- G. Increase the safety of victims prior to testifying by increasing security at shelters, decreasing delays in court hearings, increasing prosecutions of witness tampering, and relocating witnesses when warranted.
- H. Improve victims' awareness of and ability to obtain restitution from trafficking offenders.
- I. Clarify the rules and procedure for the provision of residence permits to trafficking victims.
- J. Reinstitute inspections of regional national referral commissions and revitalize inactive ones.
- K. Continue to improve cooperation between local anti-trafficking civil society groups and local law enforcement.
- L. Continue efforts to provide anti-trafficking training to law enforcement and other government officials, including members of the judiciary.
- M. Use measures to reduce the demand for commercial sex, such as conducting awareness activities that target potential consumers of prostitution.

Background Information

The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The United States Government approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that the crime of human trafficking includes obtaining or maintaining victims' labor or services (including in the "sex industry") through force, fraud, or coercion, whether overt or through psychological manipulation. Both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require that the victim be moved to be considered trafficked.

Countries determined to be a country of origin, transit, or destination for at least two victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as fully complying with the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to bring themselves into compliance with those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to bring themselves into compliance are classified as Tier 3. The TVPA Minimum Standards are generally consistent with the UN TIP Protocol.

The Tier 2 Watch List consists of Tier 2 countries (that are making significant efforts, but) where : (1) there is a failure to provide evidence of increasing efforts to combat human trafficking over the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; (2) the Tier 2 classification was based on commitments of anti-trafficking reforms over the next year; or (3) the number of trafficking victims is very significant or significantly increasing.

Reflecting U.S. Congressional concern over countries ranked for several consecutive years on the Tier 2 Watch List, 2008 amendments to the TVPA mandate that any country that has been ranked Tier 2 Watch List for two consecutive years (beginning with the 2009 Report) be ranked Tier 3 in the third year unless they either: a) show sufficient progress over the coming nine months to warrant an upgrade to Tier 2 or Tier 1; or b) qualify for a waiver of the automatic downgrade provision. A country must be on Tier 2 Watch List for two consecutive years for this provision to take effect. It would not apply if, for example, a country was ranked Tier 2 Watch List one year, Tier 2 a second year, and Tier 2 Watch List a third year. Forty-two countries are ranked Tier 2 Watch List in the 2012 TIP Report. Twenty-two of these were also ranked Tier 2 Watch List in the 2011 TIP Report and therefore face the danger of a statutorily mandated Tier 3 downgrade in the 2013 Report; some may qualify for waivers of that mandated downgrade.

The Secretary of State, through delegation of authority by the President, may waive the application of the statutorily mandated Tier 3 downgrade provision for up to two consecutive years based on her determination that a waiver is justified because the country has a written plan that, if implemented, would constitute making significant efforts to bring itself into compliance with the TVPA's minimum standards for the elimination of trafficking, and is devoting sufficient resources to implement that plan. If the Secretary has waived the automatic downgrade of a Tier 2 Watch List country for two consecutive years based on the above criteria and the country has not made improvements during this period to warrant removal from the Watch List, by law a waiver is not be available for the third year and the country will be downgraded to Tier 3. The normal process for determining if Tier 3 sanctions are waived would then apply. Six countries received waivers in both the 2011 and 2012 TIP Reports and are subject to an automatic downgrade in the 2013 TIP Report unless they are ranked Tier 2 or Tier 1. The text of the TVPA and amendments can be found on the Department's website www.state.gov/j/tip.

The TVPA also requires the Secretary of State to provide a list to Congress later in the year of countries which: a) moved up a full tier from the previous TIP Report (from 3 to 2 or from 2 to 1) or, b) are ranked Tier 2 Watch List. Anti-trafficking efforts of the countries on this list are briefly evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year.

Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President can instruct the U.S. executive directors to international financial institutions to use best efforts to deny loans or other utilization of funds (other than for humanitarian, trade related, or certain types of development assistance) for countries on Tier 3. The President's determinations on these assistance restrictions or waivers are required to be transmitted to Congress no later than 90 days after the release of the TIP Report.

The Child Soldiers Prevention Act (CSPA) of 2008 (Title IV of Public Law 110457) requires publication in the annual Trafficking in Persons (TIP) Report of a list of countries that have governmental armed forces or government-supported armed groups that recruit or use child soldiers (not including police forces that are not involved in direct hostilities). The CSPA defines child soldier to include any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces, any person under 18 who is forcibly recruited into governmental armed forces, and any person under 15 who has been voluntarily recruited into those forces. It further defines "child soldier" to include any person under 18 who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state. For those children not taking a direct part in hostilities, child soldiers can be serving in any capacity, including in a support role, such as a cook, porter, messenger, medic, guard, or sex slave.

In the fiscal year following the CSPA listing (starting October 1, 2012), governments of countries listed as having government or government-supported groups using child soldiers are subject to sanctions on a broad range of security assistance and commercial licensing of military

equipment, absent a Presidential national interest waiver, applicable exception, or reinstatement of assistance pursuant to the terms of the CSPA. Seven countries are listed pursuant to the CSPA in the 2012 TIP Report: Burma, the Democratic Republic of the Congo, Libya, Somalia, Sudan, South Sudan, and Yemen. Decisions on sanctions and/or waivers must be made no later than 90 days after the release of the 2012 TIP Report, in concert with the Presidential restriction determinations made for countries ranked as Tier 3 in the 2012 TIP Report.

A key theme of the 2012 TIP Report is the "Promise of Freedom." This year will mark the 150th anniversary of the date Abraham Lincoln issued the document that would become known as the Emancipation Proclamation. That document and the 13th Amendment to the United States Constitution, which followed three years later, represent the promise of freedom. Similar promises of freedom and victims' rights underlie international legal instruments such as the Palermo Protocol. The 2012 TIP Report calls on all governments, including the United States, to fulfill our promises to victims and to freedom. A critical sub-theme of this Report is, "Victims' Rights," including victims' empowerment and access, victim protection in tight budgetary environments, and high quality victim care.

In the spirit of transparency and strengthening efforts at home and in partnership with other countries, for the third consecutive year the TIP Report contains a ranking and narrative of U.S. progress in addressing human trafficking. We hope this assessment will illustrate that the United States holds itself to the same standards to which it holds other countries and will encourage other countries to take a self-critical approach to their anti-trafficking efforts. This year's Report also addresses areas where continued international partnership is needed, disabilities as a risk factor for trafficking, forced labor on fishing boats, and the importance of ending demand for the products produced by human trafficking.