

# Germany - United States Department of State

## GERMANY: Tier 2

The Government of Germany 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; therefore Germany remained on Tier 2. These efforts included increasing the number of investigations, prosecutions, and convictions, as well as funding for victim protection. However, the government did not meet the minimum standards in several key areas. Although the government investigated, prosecuted, and convicted more suspects in 2018, fewer individuals convicted under only a trafficking offense served prison time compared to the year prior. The high number of suspended sentences for trafficking convictions, with only 23 percent of convicted sex traffickers in 2018 serving prison time, undercut efforts to hold traffickers accountable and did not meet the minimum standard generally requiring incarceration for convicted traffickers. The government identified fewer victims and had incomplete data on the number of victims and those provided with care. The federal government also remained without a national victim identification and referral mechanism for all forms of trafficking, a national action plan, and a national rapporteur.

## PRIORITIZED RECOMMENDATIONS:

Vigorously investigate and prosecute suspected labor and sex traffickers, and sentence convicted traffickers to adequate penalties, which should involve serving significant prison terms. • Increase prioritization of labor trafficking, including victim identification and investigation and prosecution of labor traffickers. • Ensure equitable treatment of victims by creating a national identification and referral guideline for all forms of trafficking across all states. • Establish a process to ensure systematic provision of care for child victims and extend more specialized care, services, and accommodations for youth and male victims. • Adopt a national anti-trafficking action plan. • Increase awareness of available training for judges on adjudicating trafficking cases, both through focused courses on trafficking and similar modules in broader training courses. • Increase the capacity of investigators, prosecutors, and courts with specific expertise on trafficking cases to minimize delay in bringing cases to trial. • Increase worker protections by eliminating recruitment or placement fees charged to workers by German labor recruiters and ensuring employers pay any recruitment fees. • Implement strong regulations and oversight of recruitment companies that are consistently enforced, including prosecuting them for fraudulent labor recruitment. • Appoint a national rapporteur to provide independent review of government efforts on both labor and sex trafficking. • Establish a uniform and comprehensive data collection system, including publicly available disaggregated data on sentencing where courts convict defendants of both trafficking and one or more other serious crimes. • Increase harmonization of the institutional framework and coordination structures at the federal and state levels. • Increase efforts to order restitution for victims.

## PROSECUTION

The government maintained law enforcement efforts. The criminal code criminalized sex trafficking and labor trafficking under Sections 232, 232(a), 232(b), 233, and 233(a) and prescribed punishments of six months to 10 years' imprisonment, which were sufficiently stringent and, with regard to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. The law did not require proof of force or coercion to prosecute suspected sex traffickers when victims were younger than 21. The complex wording and scope of the trafficking and exploitation sections in the Criminal Code (Sections 232 to 233a) reportedly resulted in state prosecutors sometimes charging suspected traffickers with offenses considered easier to prove than coercion in labor and sex trafficking. As a federal system, jurisdiction for criminal prosecutions in Germany rested with state courts and consequently, procedures, staffing, and funding varied from state to state.

State governments conducted 386 pre-trial trafficking investigations of 602 suspects in 2018, the most recent year for which the government had comprehensive statistics (compared to 340 investigations into 552 suspects in 2017). Of the investigations, there were 356 for sex trafficking (compared to 327 in 2017), 21 for labor trafficking (compared to 11 in 2017), two for forced begging (compared to two in 2017), and seven for forced criminality (compared to zero in 2017). Police identified 552 suspects for sex trafficking (compared to 523 in 2017), 30 for labor trafficking (compared to 27 in 2017), 10 for forced begging (compared to two in 2017), and 10 for forced criminality (compared to zero in 2017). Minors were victims in 38 percent of investigations. German citizens comprised 21 percent of the suspects, followed by Bulgarians (19 percent), and Romanians (13 percent), remaining relatively the same as prior years. However, the number of Nigerian and Hungarian suspects increased compared to 2017. Almost half (46 percent) of the suspects were either family or known to the victim prior to exploiting victims in sex trafficking.

While the government investigated, prosecuted, and convicted more suspects in 2018, fewer individuals convicted under only a trafficking offense served prison time compared to the year prior. The states collectively prosecuted 96 defendants for trafficking in 2018, compared to 76 in 2017. Courts convicted 68 traffickers, compared to 50 in 2017. Of the 68 convictions in 2018, 40 (59 percent) resulted in suspended sentences and traffickers served no prison time (compared to 26 in 2017), 12 traffickers (17 percent) received only fines (compared to seven in 2017), 16 traffickers (24 percent) received and served prison terms (compared to 18 in 2017), and five traffickers received neither prison sentences nor fines. Of the 16 traffickers who received prison time, sentences ranged from less than one year to 10 years—one trafficker was sentenced to less than one year, two traffickers were sentenced to one to two years, six traffickers were sentenced to two to three years, five traffickers were sentenced to three to five years, and one trafficker was sentenced to five to 10 years' imprisonment. In comparison, a higher percentage of defendants convicted of rape in 2018 served prison time (58 percent). For all cases in which a court convicted a defendant of multiple crimes, government statistics filed it only under the charge that has the highest statutory sentence. Therefore, official statistics did not include cases in which the court convicted a defendant of trafficking and where that defendant received an aggregate sentence for another crime that carried a higher statutory sentence. Under German sentencing practices, judges typically suspended sentences under two years, particularly for first-time offenders, for most crimes, including human trafficking. This practice weakened deterrence, potentially undercut efforts of police and prosecutors, and

created potential security and safety concerns, particularly for victims who cooperated with investigations and prosecutions. Compared to 2017, the government nearly doubled its labor trafficking investigations in 2018. While the government did not breakout the total number of suspects prosecuted or traffickers convicted for labor trafficking, they reported prosecuting at least five suspects and convicting at least four traffickers, none of whom served jail time. This compared with five prosecuted and three convicted, but only received fines, in 2017. Current standards in classification and procedure in data collection, in addition to strict privacy laws, continued to result in incomplete data and underreporting. This likely lowered both the reported number of trafficking convictions and the average length of sentences. Notable cases during the reporting period included a case in June 2019 where the government issued its first trafficking conviction for forced criminality and several cases where traffickers were issued significant sentences, including one sentence of nine and a half years. The government did not report any investigations, prosecutions, or convictions of officials complicit in human trafficking offenses. In August 2019, the government reported convicting and sentencing a German male to 13.5 years of prison for child sex tourism while he was in Thailand.

Frequent turnover, insufficient personnel, and limited dedicated trafficking resources could hinder law enforcement efforts, sometimes leading to protracted court cases that were ultimately dismissed due to the statute of limitations or the unwillingness of victims to participate in prolonged proceedings. Most, but not all, states had dedicated anti-trafficking investigation units; a couple of states had specialized prosecutors, but no states had judges or courts that specialized in trying or hearing human trafficking cases. Although prosecutors with experience assisting victims through trial processes frequently led sex trafficking cases, labor trafficking cases were more often assigned to financial, economic, or organized crime sections that lacked similar experience. The government and state-funded NGOs continued to organize and provide training to law enforcement officials, prosecutors, and social workers through various workshops, webinars, and seminars throughout the reporting period. In 2019, a state-funded NGO provided anti-trafficking legal training to 30 investigators, and the police provided anti-trafficking training to 200 police officers and youth welfare office managers, specifically for minors. The government's service center for agencies and professionals working on trafficking cases, Servicestelle, continued to provide training to prosecutors on forced labor and provided a new anti-trafficking training to local job center personnel. States also continued to train law enforcement officials. While judges could not be compelled to attend training courses, many voluntarily participated in some form of training including at the German Judicial Academy. The federal criminal police (Bundeskriminalamt or BKA) maintained an information portal for federal and state police forces with information on current trends, guidelines, and investigative tools for combating trafficking; Servicestelle also maintained an online platform that provided access to information on guidelines, agreements, and counseling centers for victims. Federal and state-level police continued to collaborate with EUROPOL and foreign governments, notably Romania, Bulgaria, and Nigeria, conducting trainings and investigating trafficking cases. These efforts resulted in the arrest of four suspected Romanian child sex traffickers. Through an international program, German police cooperated with Nigerian police on anti-trafficking efforts twice in 2019. During the reporting period, Germany extradited 26 suspected traffickers to 11 countries and received 18 trafficking suspects from eight countries.

## PROTECTION

The government made uneven protection efforts. In 2018, the most recent year for which comprehensive statistics were available, state government authorities, who are responsible for protection efforts, identified 503 trafficking victims, compared to 669 in 2017. Of these, 430 were victims of sex trafficking (489 in 2017) and 63 of labor trafficking (180 in 2017). In 2018, authorities identified two Romanian victims of forced begging, as well as eight victims of forced criminality. Almost all sex trafficking victims were female (96 percent) and nearly half (48 percent) of all sex trafficking victims were younger than 21. The majority of identified sex trafficking victims were German (79), Bulgarian (66), Romanian (63), and Nigerian (61). The majority of labor trafficking victims were male (86 percent) and were Ukrainian (27), Vietnamese (9), and Hungarian (7). Compared to 2017, where there were several large investigations (180), there was a significant decrease in the number of labor trafficking victims identified in 2018; however, when compared to 2016 (48) and 2015 (54), the number of identified labor trafficking victims was similar. Most labor trafficking victims were identified in the construction (38) and catering (12) sectors. The police continued to proactively identify the majority of human trafficking victims. While the government did not report the total number of victims that received care, of the 430 identified sex trafficking victims, 157 were referred to victim protection services and received care through specialized counseling centers. However, in its 2019 report, GRETA noted that the official figures of identified trafficking victims do not reflect the true scale of the trafficking in Germany due to the absence of a comprehensive and coherent approach to detecting and identifying victims, including amongst migrants and asylum-seekers, problems with data collection, and insufficient prioritization of labor trafficking. During the reporting period, some NGOs reported that the number of sex trafficking victims increased following the implementation of the prostitution law, while other NGOs continued to express concern that the most vulnerable victims of trafficking would either not register or register without disclosing trafficking crimes; despite this, sex trafficking victim identification did not correspondingly increase.

Germany did not have a single national victim identification or referral mechanism to address all forms of trafficking and both children and adults remained without systematic provision of care, though there was a national identification tool for children. Investigations and prosecutions were handled at the state level; each state had a separate system to refer victims to either state-run support or NGOs, and several states had written identification guidelines for some, but not all, forms of trafficking. However, not all states had referral agreements for victims of all forms of trafficking, including forced begging and forced criminality. The Federal Agency for Migration and Refugees (BAMF) continued to utilize its standard operating procedures and trafficking indicator lists to identify potential victims in the asylum protection system and made referrals to counseling centers, though NGOs continued to suggest improvements in victim identification. BAMF introduced a new training module in 2019 that focused specifically on human trafficking and reached approximately 80-100 asylum decision makers. Each BAMF branch office in Germany included at least one representative to assist in identifying and supporting potential victims of trafficking. Fifteen of 16 states had cooperation agreements in place between police and NGOs for various purposes.

The government provided victim services through the Network against Trafficking in Human Beings (KOK), the government-funded NGO network charged with coordinating and overseeing victim support efforts across Germany. National government funding for the KOK's management operations was €1.5 million (\$1.69 million) total for the three-year period of 2019-2021, an increase from €370,000 (\$415,730) in 2018 and €343,000 (\$385,390) for 2017. State governments also supported trafficking victims; for instance, in 2019, the Bavarian labor ministry continued

providing €600,000 (\$674,160), while North Rhine Westphalia funded €1.7 million (\$1.91 million) to support eight counseling centers specifically for sex trafficking victims, a significant increase from €1 million (\$1.12 million) in 2018. Government-funded NGO counseling centers served both labor and sex trafficking victims, although many centers only had a mandate to work with female sex trafficking victims. Trafficking-specific NGO service providers operated in 45 cities, providing shelter, medical and psychological care, legal assistance, vocational support, and assistance acquiring residence permits. Trade union-affiliated and migrant counseling centers also supported labor trafficking victims. There was limited comprehensive or long-term support across the centers for children and male trafficking victims, and KOK noted overall availability of services and shelters was inconsistent across states. The Prostitute Protection Act of 2016 mandated individuals in commercial sex register for a license and required counseling sessions, including on health and legal rights. The law required officials across all states to screen for trafficking indicators during registration, during which officials identified numerous individuals subjected to force, fraud, or coercion. While foreign migrant and asylum-seeking victims are entitled to social benefits and deportation relief, unidentified victims among the asylum-seeking population remained vulnerable as they could be deported back to their first country of EU entrance without first receiving victim protection. Prosecutors, together with other authorities, offered undocumented victims a reflection period of three months to decide if they would testify in court, but the government did not report how many victims received this reflection period. Victims who agreed to testify could remain and work in Germany through the duration of the trial. The law granted officials the authority to issue residence permits to victims in cases of humanitarian hardship, for public interest, or who faced injury or threats to life or freedom in their countries of origin; however, GRETA noted there were significant discrepancies from state to state in the application of the law. Family members were eligible for residency in certain circumstances. Subject to certain requirements, victims could join criminal trials as joint plaintiffs and were entitled to free legal counsel and pursuit of civil remedies as part of the criminal proceeding.

While the law allowed for compensation from the government, it could only be awarded to victims who had experienced direct physical violence, and the government did not report whether it awarded compensation to any victims during the reporting period. The government amended the Victims of Crime Act in November 2019, which will address the requirement of physical violence and expand protections to include psychological violence once it enters into force in January 2024; this may result in more restitution awards to trafficking victims. The government did not report that any victims received restitution during the reporting period. The government also did not report awarding damages to any victims through civil suits. The law entitled victims to an interpreter and a third-party representative from a counseling center to accompany them to all interviews. The law also exempted trafficking victims from criminal prosecution for minor unlawful acts traffickers compelled them to commit. The law provided legal alternatives to removal to countries in which victims would face retribution or hardship. A joint operation between federal police, the Financial Monitoring Unit to Combat Illicit Employment (FKS), and an NGO, resulted in the identification of 160 Serbian workers; however, rather than recognize the workers as suspected trafficking victims and despite the disagreement of other relevant government authorities, immigration authorities instead penalized the workers by refusing to issue certificates that would entitle them to victim protections and issued a two-year entry ban to some of them for working illegally in Germany. Victims of trafficking seeking to transfer asylum claims to Germany were occasionally returned to their original arrival country, which sometimes included their traffickers. NGOs and GRETA reported that victims were not systematically informed of their rights. The government encouraged victim cooperation

with law enforcement efforts by passing the 2019 Modernization of Criminal Procedures Act, which allowed victims to submit video testimony. During the reporting period, the government took measures to lessen the burden and re-traumatization of victims by not always requiring victim testimony in trials. The government offered witness protection as needed, and police would accompany witnesses to trials; in 2019, a total of 17 trafficking victims were provided witness protection (14 percent of all those provided witness protection).

## PREVENTION

The government maintained efforts to prevent trafficking. Germany remained without an anti-trafficking national action plan. The government did not have a dedicated anti-trafficking coordination committee addressing all forms of trafficking, but had three federal-state interagency working groups that coordinate with each other and addressed all forms of trafficking. The government remained without a national rapporteur, a key recommendation of GRETA's 2019 and 2015 reports. The federal government, through NGOs, co-funded and implemented various awareness campaigns, in addition to efforts at the state level. The federal government did not have a trafficking-specific hotline, but continued to fund a 24/7 hotline in 17 languages for women affected by violence; in 2018, the hotline received calls from 68 potential trafficking victims (compared to 120 in 2017).

The government did not effectively regulate labor recruiters and did not hold any civilly or criminally liable for fraudulent recruiting during the reporting period, though several investigations were ongoing. The law allowed German labor recruiters to charge workers recruitment fees, which increased vulnerability to labor trafficking. Private labor recruiters did not require a license to operate. During the reporting period, NGOs expressed concern regarding the labor recruitment process, and there were reports of Polish companies forging immigration documents, paying below minimum wage, charging exorbitant housing fees, and threatening retaliation and reporting of illegal immigration status if workers complained.

For domestic workers employed by embassies in Berlin, authorities conducted annual in-person interviews without employers present and required proof of salary. The government passed the Act of Illicit Work and Illicit Employment with the intention of addressing labor trafficking by streamlining data exchange between relevant law enforcement offices and by extending the mandate of FKS to include trafficking, thereby increasing staff that could potentially identify forced labor victims. FKS did not have the authority to perform labor inspections of workers in domestic households without the home owners' consent, potentially increasing vulnerability to trafficking. The government did not make efforts to reduce the demand for commercial sex acts. The government demonstrated efforts to reduce the demand for international sex tourism by convicting a German male and sentencing him to 13.5 years of prison for child sex tourism in August 2019.

## TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Germany. Most

identified sex trafficking victims in Germany are EU citizens, primarily German citizens, Bulgarians, and Romanians (of which a significant percentage are ethnic Roma). Victims also come from most other regions of the world, particularly China, Nigeria, and other parts of Africa. Family members in organized groups force victims into trafficking situations, and reports estimate around 11 percent of sex trafficking victims are recruited by trusted family members. Similarly, Roma families sometimes force their children, both male and female, into commercial sex on the streets. Authorities continue to report the prevalence of young male traffickers, known as “lover boys,” coercing girls and women into sex trafficking, often through a sham romantic relationship. Traffickers continue to target migrants and refugees upon arrival. Traffickers continue to fraudulently recruit and later coerce Nigerian women and girls to stay in exploitative situations using a “voodoo oath” they are forced to swear. Some NGOs report that the number of sex trafficking victims increased following the implementation of the 2016 prostitution law. The Nigerian and European mafias increasingly cooperate to facilitate human trafficking from Africa. Several foreign governments continue to report German citizens engage in sex tourism abroad. Labor trafficking victims are predominantly male and European, including from North Macedonia, Latvia, Ukraine, Bulgaria, Poland, and Romania, but also Afghanistan, Pakistan, and Vietnam. Traffickers exploit victims of forced labor primarily at construction sites, but also in hotels, meat-processing plants, seasonal industries, and restaurants, and as caregivers in private homes, with reported increases in the number of child victims. Traffickers subject Roma and foreign unaccompanied minors to sex trafficking, forced begging, and other coerced criminal behavior.