



U.S. Embassy in Costa Rica

Trafficking in Persons Report 2017 – Costa Rica – Tier 2 Watch List

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Costa Rica (Tier 2)

The Government of Costa Rica does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Costa Rica was upgraded to Tier 2. The government demonstrated increasing efforts by disbursing funds from its national anti-trafficking and smuggling fund to key government agencies for the first time; providing funds and technical support to open a second emergency shelter; addressing complicity by indicting a former mayor and four suspected accomplices on charges of establishing a trafficking network; identifying more trafficking victims than in the previous year; and improving public awareness-raising activities about forced labor. However, the government did not meet the minimum standards in several key areas. Prosecution efforts remained weak and publicly funded victim services remained insufficient to care for the number of victims identified.

Recommendations for Costa Rica

Intensify efforts to investigate and prosecute trafficking offenses, including labor trafficking and cases not involving movement under trafficking-related criminal code provisions, and convict and punish traffickers; amend legislation to define human trafficking consistent with international law; increase the disbursement of funds for victim services and provide specialized shelter and services for trafficking victims, including men, in partnership with civil society organizations; improve victim identification and referral, and investigations and prosecutions, particularly in cases occurring outside of the capital; improve screening of individuals in prostitution for indicators of trafficking, including during raids; conduct thorough and transparent criminal investigations of alleged

government complicity in trafficking offenses and prosecute, convict and punish complicit officials; increase efforts to investigate, prosecute, and convict child sex tourists and others who purchase commercial sex acts from child trafficking victims; increase anti-trafficking training for police, prosecutors, and judges; and improve data collection on law enforcement and victim protection efforts.

Prosecution

The government maintained law enforcement efforts. Article 172 of the criminal code criminalizes the acts of promoting, facilitating, or assisting in the movement of persons across borders for sexual or labor exploitation, slavery or practices similar to slavery, forced labor or services, or forced begging, and prescribes penalties of four to 20 years imprisonment; these penalties are sufficiently stringent and commensurate with other serious crimes. The definition of trafficking in the law is inconsistent with international law in that it requires that a victim be internationally transported; and also criminalizes these acts for the purpose of illegal adoption and labor exploitation that does not amount to forced labor. In addition to article 172, officials used trafficking-related offenses, including prohibiting holding a person in servitude (article 189) or aggravated pimping (article 170) or coerced pimping (article 171) to prosecute cases. These articles prescribe penalties ranging from two to 10 years imprisonment; these penalties are sufficiently stringent and commensurate with other serious crimes. The government and national assembly introduced an amendment to the law in 2016, under review by the national assembly's human rights committee, which would improve the current law by removing the requirement of movement and establishing force, fraud, or coercion as essential elements of the crime.

The Attorney General's Office reported investigating 26 new cases of movement-based trafficking (article 172) and aggravated pimping (article 170) compared to 31 new cases of movement-based trafficking in 2015. The government initiated 39 new prosecutions—27 movement-based trafficking prosecutions (article 172) and 12 aggravated and coerced pimping prosecutions (articles 170-171); brought one movement-based trafficking case to trial; and convicted one trafficker of movement-based trafficking under article 172. Prosecutors appealed three acquittals from 2014 in a case of suspected labor trafficking involving Asian fishermen on boats in Costa Rican waters, but the appellate court declined to accept the case. The government designated funding for 2017

to increase investigative and prosecutorial capacity in rural areas and cities outside the central valley. Observers noted the judicial system had a significant backlog of criminal cases, including trafficking cases, which slowed prosecutions. The government provided anti-trafficking training to law enforcement, the judicial sector, and child welfare officials; and civil society members. The government indicted a former mayor and four suspected accomplices on charges of establishing a trafficking network, aggravated rape, and giving illicit narcotics to minors in a case opened in 2011; the case was awaiting a court date at the close of the reporting period. The court dismissed a case against a government official who was previously investigated for using an official vehicle for unauthorized personal use; this official was visiting an establishment where, according to media reports, sex trafficking occurred. The government did not convict any officials complicit in human trafficking or trafficking-related offenses.

Protection

The government increased victim protection efforts. The government identified and verified 17 trafficking victims in 2016 under the existing trafficking law (12 sex trafficking and five labor trafficking), compared to three sex trafficking victims in 2015 under the same law, and 23 victims (13 sex trafficking and ten labor trafficking) in 2014. However, the government provided shelter and health, legal, and psychological services to 53 potential victims during the reporting period, including 44 women, two men, six girls, and one boy. Potential victims received immediate services, but not all 53 were “verified” as trafficking victims under Costa Rican protocols. Law enforcement authorities used written procedures for identifying victims among vulnerable groups, such as migrants and individuals in prostitution, and referred identified victims to the government’s interagency anti-trafficking body, the National Coalition against Migrant Smuggling and Trafficking in Persons (CONATT) to coordinate service provision.

The 2013 law mandates CONATT to coordinate assistance to trafficking victims, which includes emergency, short-term, and long-term assistance. The government updated its protocol for officials on the immediate response team responsible for certifying victims and updated its protocol for coordinating among various agencies and NGOs to provide victim services, which could include food, lodging, and health, financial, and psychological support. Authorities had the discretion to refer victims to services on a case-by-case basis; not all victims received the same level of protection. Civil society organizations reported

referral mechanisms were not always implemented in an effective or timely manner. The government acknowledged it was challenged in using the referral mechanism by large increases in migrants in the country in 2016. The government, through the National Anti-Trafficking in Persons and Smuggling of Migrants Fund (FONATT), disbursed 122 million colons (\$223,443) to fund trafficking victim services in 2016, the first time it had used the fund. Separately, through its child welfare agency, the government provided direct funding to an NGO-run shelter for child victims, a per-victim subsidy for victims it and the NGO identified, and directed 91 million colons (\$166,667) in lottery funds to NGOs providing services to trafficking victims. Remaining services were funded and provided by NGOs. The government does not provide dedicated shelters or specialized services to male victims, although the emergency shelter and safe houses can be used for male or female victims. The government provided medical and psychological services, legal services, and support for victims assisting criminal proceedings.

The government granted temporary residency status, with permission to work or study, to 17 foreign victims in 2016. The government worked with two foreign governments to repatriate four Costa Rican trafficking victims in 2016. There were no reports that the government penalized trafficking victims for unlawful acts committed as a direct result of being subjected to human trafficking.

Prevention

The government increased prevention efforts. CONATT continued to meet quarterly and coordinate the government's anti-trafficking activities and funded an international organization to develop a new national action plan for 2017-2020. In 2016, the government obligated \$1.15 million of the total \$1.8 million available in 2016 for programming from the FONATT to public awareness raising and the establishment of a headquarters for CONATT, which will house the immediate response team and a 24-hour emergency short-term shelter for victims. Authorities financed a national public awareness campaign, distributed brochures and posters, publicized the 9-1-1 hotline with anti-trafficking messages on national lottery tickets, and held public events to warn about the dangers of trafficking. The government made efforts to reduce the demand for commercial sex acts and forced labor. The government worked to reduce the vulnerability of children of migrant indigenous workers in the coffee sector by expanding the availability of child care centers. The government educated labor recruiters for international and domestic businesses

about the consequences of violating the anti-trafficking regulations, but did not report investigating or penalizing any labor recruiters for illegal practices that contribute to trafficking. A quasi-governmental agency continued conducting trainings on combating child sex tourism for members of the tourism industry. The government convicted an individual for promoting Costa Rica as a child sex tourism destination and imposed a sentence of five years imprisonment for the first time in November 2016. The government continued to investigate and prosecute individuals that paid child trafficking victims for commercial sex, resulting in 35 investigations and at least one conviction in 2016. Working in collaboration with international partners, the government reported denying entry to 71 foreign registered sex offenders attempting to travel to Costa Rica as tourists in 2016, compared to 53 in 2015. The government and NGOs provided anti-trafficking training to its diplomatic personnel.

Trafficking Profile

As reported over the past five years, Costa Rica is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Costa Rican women and children are subjected to sex trafficking within the country, with those living in the north and central Pacific coastal zones being particularly vulnerable. Authorities have identified adults using children to transport or sell drugs; some of these children may be trafficking victims. Migrants en route to the United States, primarily from Haiti and Cuba, remained vulnerable to trafficking. The significant numbers of transgender Costa Ricans in the commercial sex industry are vulnerable to sex trafficking. Costa Ricans are subjected to sex and labor trafficking in the Bahamas and Guatemala. Women and girls from Nicaragua, the Dominican Republic, and other Latin American countries have been identified in Costa Rica as victims of sex trafficking and domestic servitude. Child sex tourism is a serious problem, with child sex tourists arriving mostly from the United States and Europe. Men and children from other Central American countries are subjected to forced labor in Costa Rica, particularly in the agriculture, construction, fishing, and commercial sectors. Nicaraguan men and women transit Costa Rica en route to Panama, where some are subjected to forced labor or sex trafficking. Indigenous Panamanians are also reportedly vulnerable to forced labor in agriculture in Costa Rica.

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