

St. MAARTEN (Tier 2)

St. Maarten is a source, transit, and destination for women, children, and men subjected to sex trafficking and forced labor. There are strong indications that some of the hundreds of foreign migrant women in St. Maarten's sex trade are subjected to debt bondage. Women and girls from Colombia, the Dominican Republic, Jamaica, and other countries in the region are the most vulnerable to becoming victims of sex trafficking. Other nationalities in the commercial sex industry that may be vulnerable to sex trafficking include women from Russia and Eastern Europe. Foreign women working in the regulated brothels and strip clubs on St. Maarten are typically granted short-term, temporary residence permits, usually valid for three to six months, after which they are required to leave the country. Strip club dancers and women in prostitution in St. Maarten are dependent upon strip club and brothel managers to obtain their work permits, thus significantly increasing their risks of sex trafficking in these establishments. Experts report that a significant number of an estimated 15,000 illegal migrant workers in the country are highly vulnerable to forced domestic service and forced labor in construction, Chinese supermarkets, retail shops, security, landscaping, and housekeeping. St. Maarten authorities reported that workers from India, Haiti, Jamaica, and other Caribbean islands are subjected to exploitive conditions involving indicators of forced labor in the country. Finally, local experts report that St. Maarten women and girls studying in the Netherlands may be vulnerable to sex trafficking by residents of the Netherlands.

The Government of St. Maarten does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated important leadership in the region by prosecuting and convicting a sex trafficking offender and holding this perpetrator accountable with jail time. Furthermore, it passed a comprehensive anti-trafficking law in 2012 that criminalizes all forms of trafficking. Near the end of the reporting period, the government launched an investigation into trafficking-related complicity involving high-level officials in the country. The government, however, did not prosecute any officials for trafficking-related complicity, which hampered its ability to authentically address its trafficking problem. The overall lack of victim identification in St. Maarten, despite a very large vulnerable population of illegal migrants and foreign women in prostitution, highlights the ineffectiveness of the government's response. This lack of victim identification likely resulted in the deportation and criminalization of trafficking victims.

Recommendations for St. Maarten: Make a robust and transparent effort to identify and assist potential victims of sex trafficking and forced labor by developing and implementing formalized, proactive victim protection measures to guide officials, including health workers, on how to identify victims and how to assist victims of forced labor and sex trafficking in the regulated and unregulated sex trade; ensure enactment and implementation of the newly-passed anti-trafficking law and vigorously prosecute, convict, and sentence trafficking offenders, including officials complicit in human trafficking; demonstrate transparency and appropriate follow-through regarding the investigation of government officials alleged involvement in the licensed brothels; empower local officials to conduct outreach in local migrant communities throughout the island

to uncover potential trafficking victims; integrate outreach by a Spanish-speaking victim advocate, trained in human trafficking indicators, into routine health inspections at the legal brothels to ensure the rights of women in these legal brothels are protected; conduct outreach with all incoming migrants, including domestic workers and foreign women on temporary entertainment visas to ensure they are informed of their rights and ways to seek help; continue to consult with the Government of the Netherlands on how it proactively uncovers victims of labor trafficking and sex trafficking within the commercial sex trade, including potential domestic victims; and implement a multilingual public awareness campaign directed toward potential victims, the general public, and potential clients of the sex trade.

Prosecution

The government made progress in its anti-trafficking law enforcement efforts and improved its capacity to prosecute trafficking offenders by passing an anti-trafficking law in 2012. Furthermore, it demonstrated important leadership in the region by holding a sex trafficking offender accountable with jail time. In June 2012, St. Maarten passed a new penal code which prohibits all forms of trafficking in persons through articles 2:239–245 and prescribes penalties ranging from four to 24 years' imprisonment. These penalties are sufficiently stringent and are commensurate with those prescribed for other serious crimes, such as rape. The government prosecuted and convicted an owner of one of St. Maarten's regulated brothels for the forced prostitution of seven Dominican women in his club. The court sentenced this offender in March 2012 to 54 months' imprisonment, 18 months of which were suspended. The offender had been in pre-trial detention since his arrest in September 2012. This case sets an important legal precedent for the country; the court findings cited the club owner's "abuse of the women's vulnerable position" and the position of power the owner had over the victims. Authorities reported that they initiated two anti-trafficking investigations during the reporting period. While authorities reported that their prosecution of a domestic servitude case in 2011 did not succeed, a subsequent 2012 decision in a civil case resulted in awarding the same victim financial compensation. In June 2012, an NGO and government immigration officials helped facilitate and organize an international donor-sponsored training on trafficking, including on indicators to identify trafficking victims. Reports during the year indicated trafficking-related complicity among high-level officials' financial who have ties to brothels in the country. Authorities launched an investigation into related allegations in March 2013.

Protection

The Government of St. Maarten did not demonstrate strong victim protection efforts during the reporting period. However, in 2011, the government identified at least eight trafficking victims, including seven sex trafficking victims in a licensed brothel, and a victim of domestic servitude. Authorities ensured the domestic servitude victim was referred for protection and assistance from a local NGO and facilitated the victim's safe repatriation in coordination with IOM. The government, however, did not identify any sex trafficking victims within St. Maarten's government-licensed brothels employing foreign women in 2012. The government did not ensure

that immigration officials charged with regulating these brothels employed measures to identify human trafficking victims and refer suspected victims for assistance. Furthermore, weekly required health checks of these highly vulnerable women did not include specific screening questions for indications of trafficking. Immigration authorities reported the standard enforcement response for women who escape these brothels was deportation, rather than launching an anti-trafficking investigation into the circumstances driving their escape. The government provided a small financial stipend to a local NGO, which had to rely on other funds in 2012 to assist the domestic servitude victim. Although the government reported foreign trafficking victims could be granted temporary residency permits, it did not provide evidence that it issued any such permits during the year. Furthermore, the government did not report that it had a policy to protect identified victims from being punished for crimes committed as a direct result of being trafficked. The lack of standard operating procedures for victim identification for all front-line responders, including immigration officers and health workers, hindered the government's ability to identify additional trafficking victims and likely resulted in victims' inadvertent arrest and deportation.

Prevention

The government did not initiate any trafficking awareness campaigns to educate the general public about sex trafficking or forced labor in 2012. However, during the year, the prosecutor's office and the police conducted outreach with an Indian merchant association to educate Indian merchants about the new anti-trafficking law, alert them about the signs and indications of human trafficking, and urge compliance with local labor laws. Some officials were formal members of an NGO network that met throughout the year to discuss anti-trafficking trends. The government did not launch any awareness campaigns specifically targeting the demand for forced labor or potential clients of the sex trade in St. Maarten in an effort to reduce the demand for commercial sex acts. St. Maarten did not have a trafficking rapporteur to monitor and evaluate its anti-trafficking efforts. The government has not identified incidents of foreign child sex tourism in St. Maarten.