

Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2022/0426(COD) Directive</p>	Awaiting Council's 1st reading position
<p>Preventing and combating trafficking in human beings and protecting its victims</p> <p>Amending Directive 2011/36 2010/0065(COD)</p> <p>Subject 7.30.30.02 Action to combat violence, trafficking in human beings and migrant smuggling 7.40.04 Judicial cooperation in criminal matters</p> <p>Legislative priorities Joint Declaration 2023-24 Joint Declaration 2022</p>	

Key players			
European Parliament	Joint Committee Responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs		25/04/2023
	Women's Rights and Gender Equality	 BJÖRK Malin	25/04/2023
		 RODRÍGUEZ PALOP Eugenia	
		Shadow rapporteur	
		 DÜPONT Lena	
		 WALSH Maria	
		 LEITÃO-MARQUES Maria-Manuel	
		 LÓPEZ AGUILAR Juan Fernando	
		 AL-SAHLANI Abir	
		 TOOM Jana	
		 KUHNIKE Alice	
	 ANDERSON Christine		
	 CHAGNON Patricia		



DE LA PISA CARRIÓN

Margarita



SOFO Vincenzo

FEMM [Civil Liberties, Justice and Home Affairs](#)

[Women's Rights and Gender Equality](#)

Committee for opinion

Rapporteur for opinion

Appointed

JURI [Legal Affairs](#)

The committee decided not to give an opinion.

Council of the European Union
European Commission

Commission DG

Commissioner

[Migration and Home Affairs](#)

JOHANSSON Ylva

Key events

19/12/2022	Legislative proposal published	COM(2022)0732	Summary
01/02/2023	Committee referral announced in Parliament, 1st reading		
11/05/2023	Referral to joint committee announced in Parliament		
05/10/2023	Vote in committee, 1st reading		
05/10/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
10/10/2023	Committee report tabled for plenary, 1st reading	A9-0285/2023	Summary
16/10/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
18/10/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
15/02/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE759.031 GEDA/A/(2024)000946	
22/04/2024	Debate in Parliament		
23/04/2024	Decision by Parliament, 1st reading	T9-0310/2024	

Technical information

Procedure reference	2022/0426(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive

	Amending Directive 2011/36 2010/0065(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 082-p2; Treaty on the Functioning of the EU TFEU 083-p1-a1; Rules of Procedure EP 58
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	CJ01/9/12031

Documentation gateway

Legislative proposal	COM(2022)0732	19/12/2022	EC	Summary
Document attached to the procedure	SEC(2022)0445	19/12/2022	EC	
Document attached to the procedure	SWD(2022)0425	19/12/2022	EC	
Document attached to the procedure	SWD(2022)0426	19/12/2022	EC	
Document attached to the procedure	SWD(2022)0427	19/12/2022	EC	
Document attached to the procedure	SWD(2022)0428	19/12/2022	EC	
Economic and Social Committee: opinion, report	CES6310/2022	27/04/2023	ESC	
Committee draft report	PE749.081	26/05/2023	EP	
Amendments tabled in committee	PE750.067	07/07/2023	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0285/2023	10/10/2023	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)000946	08/02/2024	CSL	
Text agreed during interinstitutional negotiations	PE759.031	08/02/2024	EP	
Text adopted by Parliament, 1st reading/single reading	T9-0310/2024	23/04/2024	EP	

Preventing and combating trafficking in human beings and protecting its victims

PURPOSE: to amend the anti-trafficking Directive (Directive 2011/36/EU) to better protect its victims.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2011/36/EU of the European Parliament and the Council constitutes the main Union legal instrument on preventing and combating trafficking in human beings and protecting the victims of this crime. That Directive sets out a comprehensive framework to address trafficking in human beings by establishing minimum rules concerning the definition of criminal offences and sanctions. It also includes common provisions to strengthen prevention and protection of victims, taking into account the gender perspective.

CONTENT: the Commission proposes to amend the anti-trafficking Directive to improve the Member States capability to fight trafficking in human beings more efficiently. The initiative will further harmonise the legal landscape addressing trafficking in human beings across the Member States. The new rules are expected to enhance cross-border cooperation, in terms of investigations and prosecutions, as well as victims assistance and support.

The targeted amendments concern the following items:

Forced marriage as a form of exploitation

The Commission proposes to include forced marriage as a particular form of violence against women and girls and illegal adoption within the list of minimum forms of exploitation in the anti-trafficking Directive. This will better equip the legal systems of Member States, as well as its law enforcement and judicial authorities to effectively combat trafficking in human beings for the purpose of these two forms of exploitation.

Online dimension

All stakeholders, including law enforcement authorities, international organisations and civil society organisations are deeply concerned on the increasing number of offences committed or facilitated by means of information and communication technologies. The current provisions do not make any reference as to whether such elements are to be carried out online or offline in order to be criminalised and punished. Therefore,

the Commission proposes to add a new article which explicitly mentions that the intentional acts and means, as well as exploitation should include acts committed by means of information and communication technologies. This will ensure that the online dimension of the crime is taken into account for every element of trafficking offences.

Sanctions

The Commission considers that it is crucial to enhance action against legal persons in the interest of which trafficking offences are committed. The adoption of a mandatory regime strengthens the criminal justice aspect of the response.

Therefore, the Commission proposes to amend the Directive by establishing that, instead of the list of optional sanctions, the effective, proportionate and dissuasive sanction will, if appropriate, include the exclusion from entitlement to public benefits, aid or subsidies; and the temporary or permanent closure of establishments which have been used for committing the offence. This is the regime that applies when legal persons are held liable for a standard trafficking offence. The addition of subsidies complements and expands the current optional list of sanctions, with a view to preventing that legal persons convicted for trafficking offences receive such forms of public assistance.

Referral mechanisms

Substantial room for improvement remains in the early identification and referral practices of Member States, both at the national and cross-border levels. In particular, not all Member States have a national referral mechanism in place and the structure and functioning of such mechanisms varies considerably across Member States.

This proposal seeks to ensure that all Member States establish by laws, regulations or administrative provisions national referral mechanisms, with a view to streamlining the functioning of relevant national institutions and to bringing further harmonisation in their structures and practices on referral to victims to appropriate assistance and support systems. This will also constitute the first step towards the establishment of a European Referral Mechanism.

Use of services which are the object of exploitation with knowledge that the person is a victim of trafficking

In order to reduce the demand for services that foster all forms of exploitation, the proposal establishes as a criminal offence the use of services which are the object of exploitation with the knowledge that the person is a victim of a trafficking offence (i.e. the knowing use of exploited services). This measure aims to discourage demand.

Reporting

The proposal introduces a requirement for the Commission to submit a report to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures to comply with the new rules on the knowing use of exploited services, as well as on the impact of such measures. The report should be submitted by five years after the transposition deadline. This will ensure adequate assessment and reporting on the measures proposed by the Commission after an adequate time span that allows the possibility to analyse the transposition and impact of the new rules.

Data collection

An EU-level data collection on the progress made in the fight against trafficking in human beings is carried out every two years. An evaluation of the Directive, however, showed that there are still important gaps in the data collection, particularly on criminal justice indicators and on offences concerning the use of exploited services, and that the publication of relevant statistics often arrives substantially after the end of the reporting period (usually around two years).

Therefore, the Commission proposes to introduce a requirement for Member States to collect and report data on trafficking in human beings to the Commission every year. A minimum set of indicators is specified such as the number of registered victims; number of persons suspected, prosecuted and convicted for offences and the level of disaggregation.

Preventing and combating trafficking in human beings and protecting its victims

The Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality have adopted the report presented by Malin BJÖRK (GUE/NGL, SE) and Eugenia RODRÍGUEZ PALOP (GUE/NGL, ES) on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

The relevant committees recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Offences related to trafficking in human beings

According to the amended text, exploitation should include, as a minimum: (i) the exploitation of the prostitution of others or other forms of sexual exploitation, (ii) forced labour or services, including begging, slavery or practices similar to slavery, (iii) servitude, (iv) the exploitation of criminal activities, (v) the removal of organs, (vi) forced marriage, (vii) illegal adoption, (viii) surrogacy for reproductive exploitation, (ix) exploitation of children in residential and closed-type institutions, or (x) the recruitment of children to commit or participate in criminal activities.

An offence referred to in the Directive should be punishable by a maximum penalty of at least 10 years of imprisonment where that offence:

- was committed against a victim who was particularly vulnerable (e.g. residence status, pregnancy, a situation of dependence or a state of physical, mental, intellectual or sensory disability or distress, living in institutions, such as retirement homes, childrens homes, reception centres, detention facilities or accommodation centres for asylum seekers);
- was committed within the framework of a criminal organisation;
- deliberately or by gross negligence endangered the life of the victim or caused the death of the victim;
- was committed by use of serious violence or has caused particularly serious physical or psychological harm to the victim;
- was committed by means of information or communication technologies by creating sexually explicit content featuring a victim of trafficking,

including sharing or threatening to share such content, or obtaining economic benefits from it, which places or keeps the victim in a situation of exploitation or vulnerability and causes significant psychological harm;

- was committed by means of causing the victim to take, use or be affected by drugs, alcohol or other intoxicating substances.

Member States should take the necessary measures to ensure that acts and means and exploitation are punishable by fines proportionate to the gravity and duration of the harm caused to the victim of human trafficking, as well as to the financial benefits accrued by committing the offence.

Freezing and confiscation

Frozen and confiscated instrumentalities and proceeds derived from the commission of offences should be used as a matter of priority to provide victims with support, assistance and protection, including through direct compensation to victims, and to invest into investigation and prosecution of trafficking cases.

Non-prosecution or non-application of penalties to the victim

Victims of trafficking should not be detained, charged or prosecuted for the irregularity of their entry into or stay in a Member State, or for their involvement in unlawful activities, and they should not be excluded from assistance, support and protection measures because of their decision not to cooperate with investigating or prosecuting authorities.

Assistance, support and protection for victims of trafficking in human beings

Assistance, support and protection should be provided to victims in an intersectional manner, taking into account gender, disability and child specificity. Victims should be provided with assistance, support and protection services before, during and for a sufficient period after the conclusion of the criminal proceedings, as well as assistance free of charge, in a language they understand.

Victims of trafficking in human beings in need of international protection

Member States should ensure respect for the principle of non-refoulement and the right of victims to seek international protection, including where the victim is receiving assistance, support and protection and notwithstanding irregular entry into or residence on the territory of the Member States.

Victims of trafficking who are also in need of international protection should receive assistance, support and protection taking into account their individual circumstances, including possible discrimination based on grounds such as gender, sex, racial or ethnic origin, disability, age, sexual orientation, gender identity, gender expression and sexual characteristics, or a combination of these grounds.

Member States should take the necessary measures to ensure that specific actions and support services to assist and support child victims of trafficking in human beings in their physical and psychosocial recovery are initiated following an individual assessment of the particular situation of each child victim, taking into account his or her views, needs and concerns, with a view to finding a durable solution for the child. The personal situation of unaccompanied child victims should be taken into account.

Compensation to victims

Victims of trafficking in human beings should have access to effective compensation schemes for victims of violent intentional crime, whether or not legal proceedings have been initiated. Compensation awarded to a victim of trafficking in human beings following a decision in criminal or civil proceedings should be paid to the victim in a timely manner.

Prevention

Member States should allocate the necessary resources and take appropriate measures, such as education, training and campaigns, paying particular attention to aspects related to the online environment, to target current or potential users to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.

National anti-trafficking coordinators

Member States should take the necessary measures to establish national anti-trafficking coordinators and provide them with adequate resources to effectively carry out their duties.

National action plans

Member States should adopt and implement national anti-trafficking action plans, in cooperation with national anti-trafficking coordinators, national rapporteurs and relevant stakeholders, to prevent and combat trafficking in human beings, no later than two years after the entry into force of the Directive. These plans should be reviewed and updated at least every five years.

Transparency					
WALSH Maria	Shadow rapporteur	LIBE	22/02/2024	Ruhama	
WALSH Maria	Shadow rapporteur	LIBE	21/02/2024	HSCEHT	
BJÖRK Malin	Rapporteur	LIBE	15/11/2023	Organization for Security and Co-operation in Europe	
BJÖRK Malin	Rapporteur	LIBE	27/10/2023	COALITION POUR L'ABOLITION DE LA PROSTITUTION	
KUHNKE Alice	Shadow rapporteur	FEMM	22/09/2023	Talita ChildX	

BJÖRK Malin	Rapporteur	LIBE	08/09/2023	Real Stars
KUHNKE Alice	Shadow rapporteur	FEMM	06/09/2023	RealStars
BJÖRK Malin	Rapporteur	LIBE	06/09/2023	COALITION POUR L'ABOLITION DE LA PROSTITUTION
BJÖRK Malin	Rapporteur	LIBE	20/07/2023	CAP International
AL-SAHLANI Abir	Shadow rapporteur for opinion	FEMM	29/06/2023	Sveriges Kvinnoorganisationer
AL-SAHLANI Abir	Member	07/09/2023	RealStars	