Implementation of the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims from a gender perspective

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The European Parliament adopted by 391 votes to 43, with 53 abstentions, a resolution on the implementation of the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims from a gender perspective.

To recall, trafficking in human beings (THB) is a violation of fundamental human rights under Article 5 of the Charter on Fundamental Rights of the EU, as well as a violation of the victim's personal integrity and a serious organised crime that undermines the state and the rule of law. It has been addressed at many levels of governance, most notably in the EU with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, which established a legal framework to better enable criminal prosecutions against traffickers.

The current refugee crisis has shown up the lack of proper tools at a European level for jointly combating THB, especially when its aim is the sexual exploitation of women and children.

Parliament noted that women and girls make up 80 % of registered victims of THB and children make up approximately 16 % of registered victims. 70 % of the identified victims of THB and 70 % of suspected traffickers in the EU are EU nationals.

THB is a complex transnational phenomenon that can be tackled effectively only if the EU institutions and Member States work together in a coordinated manner in order to prevent 'forum shopping' by criminal groups and individuals.

Addressing the gender dimension of THB in the implementation of the directive: Parliament noted that Directive 2011/36/EU was due to be transposed into Member States' national laws by 6 April 2013, and that all Member States except one have notified the Commission of the transposition of this directive into national law. Members States should speed up the full and correct enforcement of Directive 2011/36 /EU. Parliament emphasised that the EU's legal and political framework recognises that trafficking is a gender-specific phenomenon and called on Member States to adopt **gender-specific measures**. The gender dimension must be consistently monitored in the implementation of EU anti-trafficking legislation.

Women and men, girls and boys are vulnerable in different ways, and are often trafficked for different purposes, and that prevention, assistance and support measures must therefore be gender-specific. Parliament welcomed the Commission's creation of a webpage against trafficking that contains a database of EU-funded projects in the EU and elsewhere, up-to-date information on EU legal and political instruments, measures to combat people trafficking in the Member States, funding possibilities and EU initiatives.

It considered that asylum seekers, refugees and migrants are particularly vulnerable to trafficking and that special attention should be given to the trafficking of women, children and other vulnerable groups. The Commission and the Member States are called upon to **investigate the link between the increasing numbers of refugees arriving and THB**.

Parliament considered that greater consideration should be paid to the situation of **transgender victims**, who are considered as a vulnerable group and are particularly at risk of falling into the hands of traffickers. It believes that this vulnerability factor should be taken into account when Member States conduct individual risk assessments, so as to ensure that victims of trafficking receive appropriate protection and care. **Adequate training** on the specificities of transgender victims should be provided to officials so as to be able to identify them more proactively and adapt assistance services to meet their needs.

Gender perspective in the prevention of THB: Parliament stressed the need for a gender perspective approach based on four key strategies:

- prevention;
- prosecution;
- victim protection;
- multi-level partnership.

It also stressed the need for a consistent approach to prosecution of offences related to human trafficking, and for the Member States to step up their investigations and prosecutions. Criminal penalties for crimes of human trafficking, modern slavery and exploitation should be put in place. Increased cross-border cooperation and collaboration with the relevant EU agencies is stressed. It called on Justice and Home Affairs (JHA) agencies such as Eurojust, Europol, the FRA, Frontex, CEPOL and the EASO to develop a sustained programme of improving gender balance in decision-making relevant to trafficking.

The resolution also pointed out that it is also important for destination countries to ensure that **women migrants** who have been granted legal residency in the destination countries have access to language teaching and other means of social integration, education and training in particular, with the aim of enabling them to exercise their rights as citizens.

Parliament also called on the Members states to take more **proactive preventative actions** such as information and awareness-raising campaigns, training specifically designed for men, targeted workshops with vulnerable groups and education activities in schools, including promoting equality, combating sexist stereotypes and gender-based violence, as equal treatment should be an objective of the whole of society.

It also highlighted that owing to the coercive and deceptive nature of the crime, victims may be unable to recognise their own vulnerability. It called on Member States to implement Articles 11 to 17 of the Directive 2011/36/EU concerning protection and support of victims with a gender-sensitive approach. Parliament is strongly critical of the fact that it is not already a criminal offence to use the services of trafficked persons across all Member States.

The EU is called upon to pay attention to and make visible the **new forms of trafficking and exploitation of human beings**, including reproductive exploitation and trafficking in new-born children.

In general, Parliament considered that victims of trafficking should receive appropriate protection and care.

Prostitution: Parliament called for better implementation and monitoring of Directive 2011/36/EU, so as to ensure the non-prosecution of and non-application of sanctions or penalties to victims of THB, and emphasised that this includes the non-application of sanctions or penalties to people in prostitution and non-punishment for irregular entry or residence in countries of transit and destination.

It noted the lack of a common understanding among the Member States about what constitutes demand for exploitation, and called on the Commission and the Member States to propose guidelines on the punishment of the client based on the Nordic Model, while raising awareness about all forms of THB, especially sexual exploitation, and making other forms of exploitation like domestic servitude visible.

Parliament emphasised the data which confirm the deterrent effect that criminalisation of the purchase of sexual services has had in Sweden. It highlighted the normative effect of this model of regulation and its potential to change social attitudes in order to reduce overall demand for the services of victims of THB. In addition, Parliament called for campaigns to discourage demand for the sexual services of trafficked persons. It is of the opinion that **demand reduction can be achieved through legislation** that shifts the criminal burden onto those who purchase the sexual services of trafficked persons rather than onto those who sell it.

Parliament is also concerned at the growing phenomenon of **sexual grooming** and recalled that the victims are often in a state of emotional dependence, which hinders investigative work, as they are less easily identified as victims of trafficking in human beings and often refuse to testify against the people grooming them.

The gender dimension of assistance and support to, and protection of, victims: Parliament expressed concern that not all victims are able to access services easily or have knowledge of them. Victims of THB require specialised services, including access to safe short- and long-term accommodation, witness protection schemes, healthcare and counselling, translation and interpretation services, etc. The Commission is asked to come forward with a European strategy for combating gender violence, containing a legislative proposal on violence against women that includes THB.

Member States are called upon to:

- establish **hotlines** which victims of human trafficking and exploitation can call to seek assistance and advice;
- provide free legal aid, including legal assistance and representation, psychological and medical support, and information on the rights to assistance and health care;
- make legal aid available to victims of trafficking not only in criminal proceedings, but also in any civil, labour or immigration/asylum proceedings in which they are involved.

Parliament stressed that the cumulative effect of different types of discrimination on the grounds of sexual orientation or gender identity makes LGBTI people particularly vulnerable to trafficking in human beings. It underlined the importance for all Member States to recognise systematically the right to **access to safe abortion services** for female victims of THB whose pregnancy is a result of their exploitation.

Plenary also called on the Member States to ensure that EU and third-country nationals who are victims of trafficking are **entitled to residence permits**.

Assessment of other gender-sensitive measures taken in the implementation of the Directive: noting that the current EU Strategy towards the Eradication of THB comes to an end in 2016, Parliament called on the Commission to evaluate the current strategy and to introduce a new one that follows a human-rights-based approach, focusing on victims, includes a **clear gender dimension** and contains concrete actions in this regard, adequately and effectively addresses prevention, and continues to discourage the demand that fosters all forms of trafficking.

The resolution called on the Member States to collect **more detailed and up-to-date data** by compiling reliable statistical information gathered from all the main actors, by ensuring that the data is homogeneous and disaggregated by gender, age, type of exploitation (within the subsets of types of THB), country of

origin and destination, and by including internally trafficked people, in order to better identify potential victims and prevent crime.

Member States should increase data sharing in order to better assess the gender dimension and recent trends in THB and combat trafficking more effectively.

Parliament called on the Commission to ensure that anti-trafficking is given greater priority in the European Agenda on Migration (COM(2015)0240), so as to facilitate the engagement of victims in the prosecution of traffickers.

Despite the clear **definition of THB** given in the Directive, a number of different definitions have been adopted in Member States' national legislation. Parliament called on the Commission to conduct research on this and to report on what these differences in definition mean in practical terms for the application of the Directive. It also urged the Commission, taking into account that the Istanbul Convention is an effective tool to prevent and combat violence against women, including trafficking, and to protect and assist the victims, to promote the Member States' ratification of the Convention.