Preventing and combating trafficking in human beings and protecting its victims

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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, children’s 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.