Revised EU Anti-Trafficking Directive

New Obligations,
Emerging Trends,
and Implementation Challenges

## Introduction: The Growing Threat of Human Trafficking

Human trafficking remains one of the most heinous crimes of our time. It is a brutal violation of human dignity and fundamental rights, stripping individuals of their autonomy and subjecting them to exploitation.

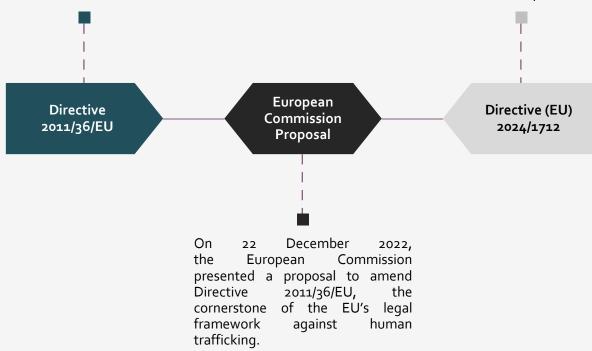
Every year, over 7,000 people in the European Union are officially identified as victims of trafficking, but experts estimate that the real numbers are significantly higher.

The financial cost of human trafficking in the EU alone reaches an alarming 2.7 billion euros annually. However, the human cost is immeasurable—lives are destroyed, and entire communities suffer the repercussions of this insidious crime.

# Background and Rationale for the Revision

The Anti-Trafficking Directive established the overarching EU framework for preventing and combating human trafficking by setting minimum rules for defining offenses and penalties related to trafficking, as well as introducing provisions to enhance crime prevention and improve victim protection.

On 14 July 2024, the revised EU Anti-Trafficking Directive enters into force, introducing more robust measures to combat trafficking, address new forms of exploitation, and enhance victim protection.





### Expansion of Recognized Forms of Exploitation

Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs, or the exploitation of surrogacy, of forced marriage, or of illegal adoption.

#### Rationale:

The exploitation of surrogacy, of forced marriage or of illegal adoption can already fall within the scope of offences concerning trafficking in human beings as defined in Directive 2011/36/EU, to the extent that all the criteria constituting those offences are fulfilled. However, in view of the gravity of those practices, and in order to tackle the steady increase in the number and relevance of offences concerning trafficking in human beings committed for purposes other than sexual or labour exploitation, the exploitation of surrogacy, of forced marriage or of illegal adoption should be included as forms of exploitation in that Directive, in so far as they fulfil the constitutive elements of trafficking in human beings, including the means criterion. More specifically, as regards trafficking for the exploitation of surrogacy, this Directive targets those who coerce or deceive women into acting as surrogate mothers. The amendments to Directive 2011/36/EU made by this Directive are without prejudice to the definitions of marriage, adoption, forced marriage and illegal adoption, or to those of offences related thereto other than trafficking, where provided for in national or international law. Those rules are also without prejudice to the national rules on surrogacy, including criminal law or family law.

## Criminalization of Intentional Using Services Provided by Trafficking Victims

Member States shall take the necessary measures to ensure that, when it is an intentional act, the use of services provided by a victim of an offence referred to in Article 2 constitutes a criminal offence, where the victim is exploited to render such services and the user of the services knows that the person providing the service is a victim of an offence referred to in Article 2.

#### Rationale:

In order to develop a coherent policy response to tackle demand that fosters trafficking in human beings, and to further reinforce and harmonise the criminal justice efforts across Member States to reduce such demand, it is important to criminalise the use of services where the victim is exploited to render such services and the user of the services knows that the person providing the service is a victim of an offence concerning trafficking in human beings. Establishing this as a criminal offence is part of a comprehensive approach to reduce demand, which aims at tackling the high levels of demand that foster all forms of exploitation. The criminalisation should target only the use of services provided within the framework of exploitation that are covered by the offence of trafficking in human beings. The offence should not, therefore, apply to customers purchasing products produced under exploitative labour conditions, as they are not the users of a service. This Directive establishes a minimum legal framework in this regard, and Member States are free to adopt or maintain more stringent criminal rules. In national law, Member States can criminalise the purchase of sexual acts. This Directive is without prejudice to the way in which Member States deal with prostitution in their national law.

### **New Aggravating Circumstances for Perpetrators**

Member States shall take the necesary measures to ensure that, where they relate to an offence referred to in Article 2, the following, in accordance with relevant provisions of the national law, are regarded as aggravating circumstances:

- (a) the fact that the offence was committed by public officials in the performance of their duties;
- (b) the fact that the perpetrator facilitated or committed, by means of information and communication technologies, the dissemination of images or videos or similar material of a sexual nature involving the victim.';

#### Rationale:

While there is no obligation to increase sentences, Member States should ensure that judges and courts, when sentencing offenders, are able to take the aggravating circumstances set out in this Directive into account. It remains within the discretion of the judge or the court to determine whether to increase the sentence due to the specific aggravating circumstances, taking into account all the facts of the case concerned. Member States should not be obliged to provide for aggravating circumstances where national law provides for a criminal offence of dissemination of images or videos or similar material of a sexual nature involving the victim, by means of information and communication technologies, to be punishable as a separate criminal offence and this can lead to more severe penalties under national law.

### Increased Liability for Legal Entities

Article 5 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

'1.Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Article 2, Article 3 and Article 18a(1) committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:';

(b) paragraphs 2 and 3 are replaced by the following:

'2.Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the offences referred to in Article 2, Article 3 and Article 18a(1) for the benefit of that legal person by a person under its authority.

3.Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of, inciters to, or accessories to the offences referred to in Article 2, Article 3 and Article 18a(1).';

#### Article 6

#### Sanctions on legal persons

1.Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) is punishable by effective, proportionate and dissuasive criminal or non-criminal sanctions or measures.

2.Member States shall take the necessary measures to ensure that sanctions or measures for legal persons held liable pursuant to Article 5(1) or (2) for the offences referred to in Article 2, Article 3 and Article 18a(1) shall include criminal or non-criminal fines, and may include other criminal or non-criminal sanctions or measures, such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) exclusion from access to public funding, including tender procedures, grants, concessions and licences;
- (c) temporary or permanent disqualification from the practice of business activities;
- (d) withdrawal of permits and authorisations to pursue activities that resulted in the relevant offence;
- (e) placing under judicial supervision;
- (f)judicial winding-up;
- (g) closure of establishments used for committing the offence;
- (h) where there is a public interest, publication of all or part of the judicial decision relating to the criminal offence committed and the sanctions or measures imposed, without prejudice to rules on privacy and the protection of personal data.';

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

Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal or other unlawful activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.';

#### Rationale:

Directive 2011/36/EU sets out the possibility of non-prosecution of, and the non-application of penalties to, victims of trafficking in relation to criminal offences that they have been compelled to commit as a direct consequence of being subject to trafficking. It is appropriate to expand the scope of the relevant provision to all unlawful activities that victims have been compelled to commit as a direct consequence of being subject to trafficking, such as administrative offences related to prostitution, begging, loitering or undeclared work, or other acts which are not criminal in nature but are subject to administrative or pecuniary penalties, in accordance with national law, in order to further encourage the victims of trafficking to report the crime or seek support and assistance, and to reassure them of the possibilities of not being held responsible.

#### The support provided to victims

The support provided to victims of human trafficking has been strengthened by requiring the establishment of national anti-trafficking coordinators and formal referral mechanisms. These measures will ensure the prompt identification of victims and the delivery of necessary assistance.

The revised Directive also includes enhanced protection for trafficking victims who may require international protection, as well as stronger provisions for supporting child victims of human trafficking. Regarding compensation, victims will have access to existing compensation schemes for victims of violent crimes. Member States may also establish national victim funds to pay compensation to victims. Furthermore, in terms of prevention, Member States are required to take appropriate measures, such as education, training, and awareness campaigns, with particular focus on the online dimension, which is increasingly relevant in human trafficking cases.

#### The revision of the EU Victims' Rights Directive

Implementation Challenges

**Transposition by 15 July 2026** 

## Another relevant international regulations on Trafficking in Human Beings



Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime



Council of Europe Convention on Action Against Trafficking in Human Beings Thank you for your attention!

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