

 

8 February, 2021

Dear Member of the European Parliament,

Tomorrow, on 9th of February, the European Parliament will vote (on a motion for) a non-binding resolution on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (2020/2029(INI)). The undersigned European Platforms, that promote the human rights of vulnerable groups in Europe welcome FEMM and LIBE committees’ efforts for the evaluation of this EU Directive and a resolution, trying to address the need for its full transposition and implementation. We support the general aim and intent of the resolution and are in particular pleased to see the strong references to rights provisions for victims of trafficking, including when undocumented.  We do regret to see amendments 1, 2, 3, 4 and 5 which propose to delete several essential right provisions for the report related to safe migration, family reunification, access to unconditional assistance and residence permit and which undermine the role of NGOs.

All forms of human trafficking must be addressed through evidence-based and victim-centered laws and policies. However, several paragraphs in this resolution make unsound assertions and recommendations that would be detrimental to the rights of trafficked persons and vulnerable groups.

**We therefore call upon you to vote against paragraphs 21, 22, 56 and 68, as well as vote against amendment 1,2, 3,4, 5 and amendment 10.**

Please see further explanation below.

**Amendment 1- 5 – Vote against.**

**Amendment 1** proposes a new §30a that disregards the role of NGOs and frames their conduct during the rescue operations at the sea as human trafficking and migrant smuggling.

**Amendment 2** proposes to delete important §37 that recognizes the right to family life of victims

**Amendment 3** proposes to change §41 by disregarding the importance of safe migration in prevention of human trafficking

**Amendment 4** proposes to delete §72 that propose to assess and review the Directive 2004/81/EC on the residence permit for victims of trafficking in order to better address the needs of victims

**Amendment 5** proposes to change §78 to disregard the importance of safe migration as a means of prevention of human trafficking.

**Para 21** **- Vote against.**

This para claims that in countries where prostitution is legal, it makes it much easier for traffickers to use a legal environment in order to exploit their victims including children. However, trafficking and exploitation continue to occur across countries that have taken very different approaches to regulating sex work. In an environment where sex work is decriminalised or regulated, the **authorities and civil society organizations have better ability to identify victims of human trafficking - including child victims**. Evidence shows that workers in **unregulated sectors, afraid of authorities** due to the nature of their work or their precarious or irregular status **are at greater risks of exploitation and trafficking**.

**Para 22** - **Vote Against.**

This para calls on the Commission to **prioritise** the prevention of the crime of trafficking for sexual exploitation. This runs counter to the calls from civil society and many institutional actors asking for a comprehensive approach that addresses all forms of trafficking in human beings. Efforts to address trafficking for sexual exploitation should not be to the detriment of victims of all forms trafficking in human beings, including labour exploitation. Even though trafficking for sexual exploitation is still the most detected and reported form of trafficking in the European Union, there are clear indications (see e.g. 2020 [Global Report on Trafficking in Persons](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf) or [ILO Global Estimates of Modern Slavery](https://www.ilo.org/wcmsp5/groups/public/%40dgreports/%40dcomm/documents/publication/wcms_575479.pdf)) for the frequent occurrence of human trafficking and other severe forms of exploitation in several regulated and unregulated labour sectors, for which all genders, also men and boys, are very vulnerable.

**With less policy attention, fewer efforts are made to control these sectors and their workforce; the identification of vulnerable, exploited and trafficked persons in these sectors will continue to lack behind**.

**Amendment 10 - Paras 56 and 68 - Vote Against.**

Amendment 10, which proposes a new §20a, calls on the Member States to recognise sex purchase as a form of violence against women and to criminalise sex purchase in line with the Swedish Equality Model introduced in 1999. This ‘Swedish’ model has been proven to exacerbate vulnerabilities of people selling sex and counterproductive in the efforts to combat human trafficking.

Paras 56 and 68 regret the fact that prosecution and conviction rates in the EU for knowingly using victims’ services and for sexual exploitation are low, acknowledge that proving knowledge in using the services of a victim of human trafficking is a difficult matter for the prosecution authorities, and at the same time call for the Commission to **amend the Anti-Trafficking Directive** with a view to ensuring that Member States **explicitly** **criminalise the knowing use of all services** provided by victims of trafficking which involve exploitation.

The EU legal framework already criminalises human trafficking and the intent and profit of exploitation, and ask states to consider  the criminalisation of the knowing use of services of trafficked and exploited persons. Instead of calling for amendment of the Anti-Trafficking Directive, **further assessment is required about the real impacts of demand measures** including the (legal) practices of criminalising all knowingly use of services and labour by trafficked persons. Whilst many sectors regularly rely on exploitative labour practices, much of the ‘demand actions’ currently taken by **EU Member States have targeted the sex work sector,** and criminalized the use of sexual services as these might be exacted from victims of trafficking. **Not only has this approach been inefficient at reducing trafficking, it has been found to dramatically increase violence and other human rights violations of sex workers**.

Broadening **criminal liability to criminalize all those that knowingly use services which involve exploitation is very dangerous and impractical, especially if - as is recommended by this paragraph, ‘**the user should demonstrate that all reasonable steps were taken to avoid the use of services provided by a victim’. This creates a positive obligation on all citizens to examine working conditions under which goods were produced or service offered. **Such a provision may create a situation of legal uncertainty, where anyone can be held criminally liable for buying goods, products or services for everyday use**, that are produced within the global supply chain, by workers in extremely precarious and exploitative conditions (and may include trafficked persons). As per the EC’s most recent anti-trafficking strategy 2012-2016, attention to due diligence and responsible business conduct in risk sectors is crucial. Yet very limited initiatives have been developed to address structural and sector-specific drivers of wage compression and exploitation.

While consumer awareness is important, further criminalisation is not the way to go. **Structural labour and economic reforms, and measures to better regulate business and empower workers are needed to address exploitative labour practices across European economies and global supply chains.**

We hope you will follow our advice and vote against these paragraphs.

This statement is endorsed by:

**La Strada International**, European Platform against trafficking in Human Beings, uniting 29 NGOs in 23 European countries

**Platform for International Cooperation on Undocumented Migrants (PICUM),** comprising 168 member organisations across 34 countries, primarily based in Europe.

**International Committee on the Rights of Sex Workers in Europe (ICRSE),** a network or 111 organisations in 35 countries in Europe and Central Asia.