BLOG

20 EU Member States under infringement procedures: Why timely transposition of the revised Anti-Trafficking Directive matters

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On 25 September 2026, the European Commission opened infringement procedures against 20 EU Member States[1] for failing to communicate the complete transposition of the amended EU Anti-Trafficking Directive[2]. The deadline to do so, was 15 July 2026. The countries concerned are Austria, Belgium, Cyprus, Czechia, Finland, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.[3]

The revised EU Anti-Trafficking Directive expands the definition of trafficking to explicitly include exploitation through forced marriage, illegal adoption and surrogacy, while strengthening victim identification and support through the (formalisation of) national referral mechanisms and focal points. It requires Member States to criminalise the knowing use of services provided by trafficking victims across all forms of exploitation. In addition, it extends the non-punishment clause beyond criminal offences to other unlawful activities that victims of trafficking have been compelled to commit as a direct consequence of their exploitation. It further strengthens sanctions for both individuals and companies involved in human trafficking, as well as prevention measures and national coordination.[4]

Out of the 27 EU Member States, 26 are bound by the Anti-Trafficking Directive. This is because Denmark benefits from a general opt-out in this area[5] and is therefore not required to transpose it. Like Denmark, Ireland is not automatically bound by the Directive either, but it has the option to opt in[6], and has chosen to do so.

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[1] EC, 'Commission takes action to ensure complete and timely transposition of EU directives' (Infringements decisions, 25 September 2026) https://ec.europa.eu/commission/presscorner/detail/en/inf_26_1834.
[2] Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, OJ L 2024/1712.
[3] EC, 'Commission takes action to ensure complete and timely transposition of EU directives' (Infringements decisions, 25 September 2026) https://ec.europa.eu/commission/presscorner/detail/en/inf_26_1834.
[4] Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, OJ L 2024/1712.
[5] Denmark has a general opt-out under Protocol No. 22 on its position in the area of freedom, security and justice.
[6] Under Protocol No. 21, Ireland has the option to opt into EU measures in this area on a case-by-case basis. Ireland notified its wish to participate in the adoption and application of the original Anti-Trafficking Directive.

Directives are among the most common types of EU legal acts and establish rules that each Member State must incorporate into its national legislation by a specified deadline. If a State fails to do so, the European Commission may start an infringement procedure. The procedure begins with a letter of formal notice, which formally requests an explanation from the Member State concerned. The letter of 25 September[7], which 20 EU Member States received, meant the start of the infringement procedure.

The Member State then has two months to respond. If its response is considered unsatisfactory, the European Commission may issue a reasoned opinion, a formal, legally substantiated statement explaining why it believes a Member State is violating EU law and what the Member State must do to remedy the situation. Ultimately, the Commission might refer the case to the Court of Justice of the European Union (CJEU), which can impose financial penalties. However, most cases are resolved before reaching this stage.[8]

The original Directive, adopted in 2011, was due to be transposed into national law in 2013.[9] At the time, 13 Member States[10] received a letter of formal notice, while four[11] also received a reasoned opinion in November 2013. None of the cases went to court, but they took a long time to close. The initiated infringement proceedings - all for failing to notify the national measures transposing the Directive by the deadline of 6 April 2013 - were not closed until 2014 or 2015. In one case (Germany) the procedure remained open until 2017[12]. Of the 13 Member States concerned, 11 appear again on the list published on 25 September 2026.

Late transposition is relatively common across the EU, but it does not necessarily indicate political resistance to EU legislation. Delays can also result from lengthy national legislative procedures, administrative constraints and the complexity of incorporating EU rules into existing national law. One particularly interesting point is that the European Commission has generally identified poor planning

[7] EC, 'Commission takes action to ensure complete and timely transposition of EU directives' (Infringements decisions, 25 September 2026) https://ec.europa.eu/commission/presscorner/detail/en/inf_26_1834.
[8] EC, 'Infringement procedure' https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en.
[9] EC, 'Trafficking in human beings: more victims in the EU but Member states are slow to respond' (Press release, 15 April 2013) https://ec.europa.eu/commission/presscorner/detail/en/ip_13_322.
[10] Austria, Cyprus, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, The Netherlands, Portugal, Slovakia, Spain.
[11] Cyprus, Spain, Italy and Luxembourg. See EC, 'Accompanying the document Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2013 Report on the application of the EU Charter of Fundamental Rights' (Commission Staff Working Document, 14 April 2014) https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014SC0141.
[12] EC, 'Member States Accompanying the document REPORT FROM THE COMMISSION Monitoring the application of European Union law 2017 Annual Report' (Commission Staff Working Document Part III, 12 July 2018) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018SC0379&utm.

and logistical delays as reasons for late transposition of EU law, even where the Directive concerned is not particularly complex or politically sensitive.

In several Member States, our members reported receiving very limited information about the transposition process, with little or no public debate or stakeholder consultation taking place, in some cases even well into the second year following the adoption of the Directive. This lack of information and engagement also extended to discussions concerning the scope and extension of the definition of trafficking in human beings in national legislation, as well as the establishment and functioning of National Referral Mechanisms (NRMs) and the designation and roles of national focal points. Consequently, opportunities for civil society organisations and other relevant stakeholders to contribute their expertise and ensure that national implementation adequately reflected the needs and realities of trafficking victims were substantially limited.

Although both the current and earlier infringement procedures mainly concern failure to notify the Commission of transposition measures, delays in transposing the Anti-Trafficking Directive can have real consequences. Late transposition does not automatically mean inadequate transposition. A Member State may transpose a Directive late but still do so fully and correctly. Conversely, timely transposition does not guarantee adequate transposition or adequate implementation.

However, late transposition may negatively affect the adequacy of implementation, as delays can create time pressure on Member States to adopt the necessary legislative and administrative measures. This may result in incomplete or insufficient transposition, whereby the focus shifts towards formally incorporating the Directive's requirements rather than ensuring their comprehensive and effective implementation in national law and practice. In some countries, our members have already observed increasing pressure from government actors to accelerate the transposition process, which also limits meaningful consultation with NGOs.

Ultimately, the importance of transposition goes beyond meeting a legal deadline or avoiding infringement proceedings. It is about ensuring that the rights, protections and safeguards agreed at EU level become a reality for victims in every Member State. However, transposition is only the first step: national legislation must also be effectively implemented, supported by adequate resources, trained professionals and cooperation with specialised organisations. Without both, the promises of the revised Directive risk remaining on paper rather than translating into meaningful protection, support and access to justice for victims of trafficking.