



Council of the
European Union

Brussels, 22 December 2022
(OR. en)

Interinstitutional File:
2022/0426(COD)

16322/22
ADD 5

DROIPEN 172
COPEN 466
JAI 1742
FREMP 283
SOC 703
CODEC 2110

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	19 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2022) 428 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION Accompanying the document 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

Delegations will find attached document SWD(2022) 428 final.

Encl.: SWD(2022) 428 final



Brussels, 19.12.2022
SWD(2022) 428 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION

Accompanying the document

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

{COM(2022) 732 final} - {SEC(2022) 445 final} - {SWD(2022) 425 final} -
{SWD(2022) 426 final} - {SWD(2022) 427 final}

1. Introduction

Trafficking in human beings is a particularly serious crime and grave violation of fundamental rights, prohibited by the Charter of Fundamental Rights of the European Union. The Anti-Trafficking Directive¹ has been the backbone of the EU's efforts in combatting human trafficking since 2011². In the EU Security Union Strategy³ the Commission pointed out the high involvement of organised crime in trafficking in human beings and the huge human costs caused by this crime. In the EU Strategy on combatting trafficking in human beings 2021-2025 adopted on 14 April 2021⁴ the Commission acknowledged that the Directive may no longer be fit for purpose. As a consequence, the Strategy set out as a key action to evaluate the implementation of the Anti-trafficking Directive and, if necessary, based on the outcome of this evaluation, propose revising it.

The evaluation is based on extensive desk research, including the Commission's two-yearly reports on the progress made in the fight against trafficking in human beings and EU-wide data collections, and extensive stakeholders consultations, notably with the Member States, the EU Agencies and civil society organisations, amongst others. The evaluation covers the period between the date of transposition on 6 April 2013 and the end of the public consultation on 22 March 2022.

2. Evolution of the problem during the evaluation period

The data collected by EUROSTAT shows that **55 314 victims of trafficking in human beings** were registered during the **reporting period of 2013-2020**. However, the actual number of victims of trafficking within the EU is likely much higher, as the data only includes victims identified by registering entities. **Sexual exploitation** has constantly been the most prevalent purpose of trafficking in human beings across the reporting period, with victims being overwhelmingly **women and girls (93%)**. **Labour exploitation** increased over the time, and has consistently been the second main form of exploitation, accounting for **20%** of all registrations. **Child victims** also increased and **constituted around one fifth (21%)** of all registered victims in the EU. **Women and girls** represented **three quarters (75%)** of trafficking victims.

Over half (56%) of registered victims were **EU citizens** and 44% were non-EU citizens. **36%** of all registered victims were **citizens of the country in which they were registered**.

The level of prosecutions and convictions has remained consistently low, especially in comparison with the number of victims, which may contribute to a **culture of impunity** for traffickers. During the reporting period, the number of recorded **suspects** for an offence of trafficking in human beings was **40 028**, the number of **prosecuted** individuals was **21 824** and the number of **convicted** individuals was **11 319**.

Trafficking in human beings continues to be a low risk, high profit crime, which generates an

¹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, [OJ L 101](#), 15.4.2011, p. 1–11.

² The Directive entered into force on 5 April 2011 and the deadline for Member States to transpose it was 6 April 2013.

³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy (COM/2020/605 final). Available at: [link](#)

⁴ EU Strategy on Combatting Trafficking in Human Beings 2021-2025, [COM\(2021\) 171 final](#).

estimated amount of **EUR 29.4 billion**⁵ per year. The annual revenues produced for trafficking for sexual exploitation are estimated at around **EUR 14 billion**⁶.

Since the adoption of the Directive, several major developments have affected the socio-economic situation, with significant implications on the trafficking in human beings landscape.

Technological developments and the **expansion of social media** created new opportunities for traffickers, allowing them to recruit victims online and to reach a much broader audience via online streaming and widespread sharing of exploitative materials⁷. Trafficking in human beings, particularly for the purpose of labour and sexual exploitation, is likely to increase, as the **economic downturn in the wake of the COVID-19 pandemic** could increase demand for cheap labour and sexual services⁸. The **war in Ukraine** further increased opportunities for traffickers to exploit the vulnerable situation of people, especially women and children, fleeing the military aggression⁹.

According to Europol, trafficking in human beings is a central activity for organised crime groups operating in the EU and the demand for sexual and labour exploitation will continue to persist¹⁰.

3. Key findings of the evaluation

3.1. Effectiveness

The Directive has been overall effective in contributing to the fight against trafficking in human beings. It created a common ground at the EU level to address the crime and contributed to a higher harmonisation of national criminal laws. However, there are still challenges in the interpretation of trafficking in human beings offences across the Member States, which affects the effectiveness of the Directive, including in the cross-border context, and in relation to some forms of exploitation, which are not included in the definition of trafficking.

A number of shortcomings were identified with respect to investigations and prosecutions for trafficking offences, notably when it comes to strengthening the capacity of law enforcement and judicial authorities to carry out financial investigations; to address the challenges posed by the increasing digitalisation of trafficking; to seize and confiscate instrumentalities and proceeds from trafficking. More dissuasive actions against legal persons to prevent, detect and combat trafficking was also identified as a key area for improvement.

The evaluation found that issues related to assistance, support and protection of victims mainly stem from gaps in the implementation of the Directive in the Member States, in

⁵ Europol, *The trafficking in human beings financial business model* (2015). Available at: [link](#).

⁶ This is a high-range estimate, taking into account hidden victims. The middle range estimate is at approximatively EUR 7 billion. European Commission, Directorate-General for Migration and Home Affairs, [Mapping the risk of serious and organised crime infiltrating legitimate businesses: final report](#), Disley, E.(editor), Blondes, E.(editor), Hulme, S.(editor), Publications Office, 2021, p. 10.

⁷ Europol, *The challenges of countering human trafficking in the digital era* (2020). Available at: [link](#).

⁸ Europol, *Beyond the pandemic – How Covid-19 will shape the serious and organized crime landscape in the EU* (2020). Available at: [link](#).

⁹ A Common Anti-Trafficking Plan to address the risks of trafficking in human beings and support potential victims among those fleeing the war in Ukraine. Available at: [link](#).

particular regarding:

- the application of the principles of non-prosecution and non-punishment of victims;
- the protection of victims in criminal proceedings;
- the provision of assistance and support services targeted to the specific needs of particularly vulnerable victims, including children and vulnerable groups;
- access to compensation.

The Directive contributed to the establishment of mechanisms aimed at the early identification and referral of victims to assistance, support and protection. However, some gaps persist when it comes to the functioning of these mechanisms and their coordination at the national and cross-border level, which may hinder victims' identification and referral to adequate services, which take into account their specific needs.

The effectiveness of the Directive is also limited in relation to reducing the demand through legislation. The optional provision on the criminalisation of the knowing use of services exacted from victims of trafficking has not been transposed by all Member States and approaches among the Member States that have transposed it vary greatly. The evaluation finds that it is often difficult to prove knowledge, although data does not allow to conclude that removing the knowledge requirement results in higher numbers of prosecution and conviction. Stakeholders were divided on the question of whether this measure would be an effective measure to reduce demand.

More generally, existing gaps in the data collection on trafficking in human beings limit the evaluation of the effectiveness of the Directive, as data may not be fully reliable and comparable. The threat picture and the quantitative assessments are undermined by the difficulties in detection and the low number of reports from victims, who are often emotionally or economically dependent on the trafficker.

3.2. Efficiency

The Directive was found to be efficient, which means that the benefits it brought offset the costs that its adoption, transposition and implementation entail. The evaluation found that the costs related to the non-implementation of the Directive were considerable, as trafficking in human beings incurs high costs to the economy and the society, linked to anti-trafficking activities, the provision of assistance, support and protection services, as well as the lost economic output and lost quality of life for the victim. Despite the cost-effectiveness of the Directive, there is a lack of adequate funding to fight trafficking in human beings at the national level, which affects the prevention, investigation and prosecution of the crime, as well as the assistance and support to the victims.

3.3. Coherence

The Directive was found to be coherent with all relevant EU and international initiatives that were considered as part of the evaluation. However, there is room to further improve consistency with Directive 2009/52/EC¹¹ (Employers Sanction Directive).

3.4. Added value

¹¹ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, [OJ L 168](#), 30.6.2009, p. 24–32.

The evaluation highlights the EU added value of the Directive to the fight against trafficking in human beings, which contributed to enhancing cross-border cooperation, including with the support of EU Agencies. The Directive also contributed to fostering institutional developments in the anti-trafficking field at the national and EU level, notably with the establishment of National Rapporteurs or Equivalent Mechanisms; introducing the function of the EU Anti-trafficking Coordinator; as well as the monitoring of the situation of trafficking in human beings through reporting and EU-wide data collection, despite the gaps mentioned above.

3.5. Relevance

Finally, the evaluation found that the objectives of the Directive remain relevant, although a number of developments in recent years needs to be further addressed. The use of technology for every phase of the trafficking offence is a major concern and growing threat. Stakeholders largely highlighted the need to address this aspect in the Directive and step up the capacity of relevant stakeholders to combat the crime online. The evaluation also underlined that the Directive had been less relevant for the private sector, in particular for employers and the technology companies.

4. Conclusions

The Directive constitutes a major milestone in the fight against trafficking in human beings. The evaluations showed that the general objectives of the Directive, namely to combat crime, organised or otherwise, in particular trafficking in persons and offences against children, by building a more coherent framework for the fight against trafficking and (2) to increase the effectiveness of the framework are met. However, the evaluation identified a number of shortcomings which impede the full attainment of its potential, in particular **concerning, prevention, prosecution, assistance of victims and monitoring**. On this basis, the deficiencies can either be addressed through improving the implementation of the Directive or reinforcing or updating certain legal aspects.

The Directive has contributed to creating a common ground at the EU level, which defines the crime; establishes effective, proportionate and dissuasive penalties; and introduces provisions to prevent it, as well as to assist, support and protect the victims. The Directive takes a gender-specific and victims' centred approach, and includes specific measures for children. It also contributes to a higher level of coordination at the EU level and fosters the monitoring of the situation of trafficking in human beings.

The evaluation largely confirms the challenges and areas of action that were identified in the EU Strategy on Combatting Trafficking in Human Beings (2021-2025). Therefore, the key actions of the EU Strategy are highly relevant in order to improve the implementation in the Member States.