OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Women’s Rights and Gender Equality

on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims from a gender perspective
(2015/2118(INI))

Rapporteur: Malin Björk
SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Women’s Rights and Gender Equality, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:


– having regard to the 1948 Universal Declaration of Human Rights,

– having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),

– having regard to the UN Convention on the Rights of the Child of 20 November 1989,

– having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),

– having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995, and to the subsequent outcome documents adopted at the United Nations Beijing +5, Beijing +10 and Beijing +15 special sessions and the Beijing +20 review conference,

– having regard to Article 5 of the Charter of Fundamental Rights of the European Union,

A. whereas, over the three-year period 2010-2012, 69 % of registered victims of trafficking in human beings (THB) were trafficked for sexual exploitation, 19 % for forced labour and 12 % for other forms of exploitation such as removal of organs or criminal activities; whereas women account for 67 % of registered victims of THB in this period, men for 17 %, girls for 13 % and boys for 3 %, including transgender people; whereas different forms of trafficking need to be addressed with specific and tailored policy measures;

B. whereas, as stated by the Joint UN Commentary on the EU Directive – A Human Rights-Based Approach (2011), several UN agencies recall that ‘trafficking in both men and women should be acknowledged, and the similarities and differences in the experiences of women and men in relation to vulnerabilities and violations should be addressed’;

C. whereas THB is a modern kind of slavery that cannot be accepted in a society that is based on respect for human rights, including gender equality; whereas trafficking in human beings is transnational in nature; whereas a European approach, both in monitoring the phenomenon and in coordinating responses to it, is needed in order to effectively tackle this type of organised crime;

D. whereas under Directive 2011/36/EU the following intentional acts are punishable: the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to
achieve the consent of a person having control over another person, for the purpose of exploitation; whereas the own-initiative report on which this opinion is based is limited to an analysis of the implementation of Directive 2011/36/EU;

E. whereas any effective anti-THB efforts must address the root causes of THB and the associated push and pull factors, including decreasing the demand and use of services involving victims of THB;

F. whereas the demand for women, girls, men and boys in the prostitution industries is a decisive pull factor for THB for sexual exploitation; and whereas the demand for cheap labour and incapacity to uphold labour rights are pull factors for THB for labour exploitation;

G. whereas there are contradictions between Directives 2004/81/EC and 2009/52/EC and Directive 2011/36/EU which prevent victims of THB from accessing proper support and assistance that are non-conditional on their participation in legal proceedings;

H. whereas identification of victims remains a challenge, and whereas, in order to help victims of trafficking and to prosecute and convict traffickers, victim support and protection needs to be reinforced, including the right of the victim to legally reside and work in the Member State to which the victim has been trafficked, as well as improving victims’ access to justice and compensation;

I. whereas the exploitation of others for sex shows should be considered to be trafficking in human beings;

J. whereas new technologies and the internet can facilitate the recruitment of victims and the advertising and selling of services connected with trafficking in human beings on a global scale;

K. whereas effective efforts against THB requires a strong framework for action with an integrated intersectional perspective on victims that includes for example gender and disabilities, and whereas special attention must be given to people living in extreme poverty, and vulnerable groups such as Roma, people with disabilities, lesbian, gay, bisexual, transgender and intersex (LGBTI) people, domestic workers, undocumented workers, asylum seekers, refugees and children, including unaccompanied minors;

L. whereas women and children may be compelled to exchange sex for protection, in order to survive, in order to advance along their migratory route and for basic sustenance; whereas survival sex is frequently a direct consequence of gaps in assistance, failures of registration systems, family separations and the absence of safe and legal entry channels into the EU;

1. Calls on the Member States and the Commission to ensure that the implementation of Directive 2011/36/EU is based on an integrated, holistic and human rights approach, with an emphasis on victim assistance, support and protection;

2. Stresses that migrant smuggling and THB are different phenomena but that they often overlap and need to be tackled in a consistent manner; recalls the role of EU agencies and networks in the early identification of victims at EU borders and in the fight against THB;
insists therefore on the need for a better exchange of best practices, adequate training in THB for law enforcement personnel, with an emphasis on the gender dimension and the special needs of trafficked women, children and other vulnerable groups so that those involved fully understand the phenomenon they are seeking to tackle and know how to recognise it at an early stage, and greater cooperation between Europol, Eurojust, national authorities and third countries, and through the use of the European Criminal Records Information System (ECRIS), in order to prevent and combat all forms of human trafficking, including sexual exploitation in the EU;

3. Calls on the Member States to cooperate in better developing guidelines on identifying victims of trafficking in human beings, which would help consular services and border guards in this task;

4. Calls on the Member States to pay particular attention to vulnerable groups, which naturally include children; reiterates that Member States must consider poverty, gender, disability, pregnancy, state of health, migration status and the fact of belonging to an ethnic minority as factors when assessing the vulnerability of a victim;

5. Considers that greater consideration should be paid to the situation of transgender victims, who often experience discrimination, stigmatisation and threats of violence because of their gender identity; is of the opinion that transgender people should be considered to be a vulnerable group, as they are particularly at risk of falling into the hands of traffickers seeking to exploit their despair; believes that this vulnerability factor should be taken into account when Member States conduct individual risk assessments, so as to ensure that victims of trafficking receive appropriate protection and care; calls on the Member States to provide officials likely to come into contact with victims or potential victims of trafficking in human beings with adequate training on the specificities of transgender victims, so as to be able to identify them more proactively and adapt assistance services to meet their needs;

6. Calls on the Member States to combat impunity, criminalise trafficking and ensure that perpetrators are brought to justice and that sanctions are strengthened; urges the Member States, therefore, to ratify all relevant international instruments, agreements and legal obligations which will make the efforts to combat trafficking in human beings more effective, coordinated and coherent, including the Council of Europe Convention on Action against Trafficking in Human Beings;

7. Calls on the Member States and intergovernmental organisations to ensure that their interventions address the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination;

8. Calls on the Member States to accelerate the full and correct enforcement of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims;

9. Calls on the Member States to put in place strong criminal penalties for crimes of human trafficking, modern slavery and exploitation; and to establish as a criminal offence the act of knowingly using the services of victims of human trafficking, including victims of trafficking in prostitution, 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; notes the low number of prosecutions and convictions for the crime of trafficking at a national level;

10. Calls for greater priority and resourcing to be given by Europol and national police forces to the prosecution of those facilitating human trafficking, paying special attention to raising awareness among police forces and the general public alike about new forms of human trafficking;

11. Calls on the Member States and the Commission to develop concrete measures to decrease the demand for women, girls, men, and boys in prostitution as a key strategy to prevent and decrease THB; urges the Member States, in this context, to fully implement Article 18(4) of Directive 2011/36/EU, and the Commission to report back on the outcome;

12. Stresses that the cumulative effect of different types of discrimination on the grounds of sexual orientation or gender identity makes LGBTI people particularly vulnerable to trafficking in human beings; calls on the Member States to address the unique needs of LGBTI people; calls on the Commission to promote the exchange of best practices in this regard;

13. Calls on the Member States to establish hotlines which victims of human trafficking and exploitation can call to seek assistance and advice; notes that such hotlines have proved to be successful in other areas such as radicalisation and child abduction;

14. Calls on the Member States to make legal aid available to victims of trafficking not only in criminal proceedings, but also in civil, labour or immigration/asylum proceedings in which they are involved;

15. Stresses that forced marriage can be regarded as a form of trafficking in human beings if it contains an element of exploitation of the victim, and calls on all Member States to include this dimension; stresses that exploitation may be sexual (marital rape, forced prostitution or pornography) or economic (domestic work or forced begging), and that the ultimate aim of trafficking can be forced marriage (selling a victim as a spouse or entering a marriage under duress); stresses that it is difficult for the authorities to detect such trafficking, as it takes place in private; calls on the Member States to provide appropriate refuge services for these victims; calls on the Commission to strengthen the exchange of best practices in this regard;

16. Is concerned at the growing phenomenon of sexual grooming; points out that the victims are often in a state of emotional dependence, which hinders investigative work, as they are less easily identified as victims of trafficking in human beings and often refuse to testify against the people grooming them; calls on the Commission to strengthen the exchange of best practices in this regard; calls on the Member States to provide a specific refuge for these victims and to ensure that law enforcement and judicial services recognise their status as victims, in particular if they are minors, so as to avoid stigmatising them for ‘deviant behaviour’;

17. Calls for the EU and the Member States to strengthen regional cooperation on trafficking in human beings along known routes, such as from the East to the EU, by using the
18. Stresses that many victims of sexual exploitation are drugged for the purpose of keeping them in a state of physical and psychological dependence; calls, therefore, on the Member States to provide specialised support programmes for these victims and to recognise this as an aggravating circumstance in their criminal justice response to trafficking in human beings;

19. Calls for the Member States and the EU to collect and exchange reliable and detailed information regarding human trafficking;

20. Recalls that Regulation (EU) 2015/2219/EU on the European Union Agency for Law Enforcement Training (CEPOL) provides for CEPOL to promote, in its training activities, common respect for, and understanding of, fundamental rights in law enforcement, such as the rights, support and protection of victims, including safeguarding the rights of victims of gender-based violence; stresses the importance of these provisions in the context of trafficking in human beings, given the vulnerability of the victims, and calls on CEPOL to take full account of this dimension in the development of all future training;

21. Calls on the Member States to combat human trafficking by clamping down on those individuals using the internet and social networks to both recruit and exploit individuals;

22. Notes that Directive 2011/36/EU prohibits the criminalisation of victims of THB; calls on the Member States, in the light of the cross-border and intra-EU nature of THB, to fully implement Articles 11 to 17 of Directive 2011/36/EU on protection and support of victims of trafficking in human beings (in particular by increasing the number of shelters for victims and by strengthening programmes for victims’ reintegration into society) and to fully implement Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime so as to ensure consistency and proper support and assistance, including as regards the right to reside in and access the labour market of the Member State to which the victim has been trafficked; stresses that these provisions should not be conditional on victims lodging complaints or cooperating in criminal investigations; calls on the Commission to strengthen the exchange of best practices on the protection of victims;

23. Calls on the Member States to critically assess their registration of refugees and the relevant services and care structures, as this group, particularly unaccompanied minors, are very vulnerable to exploitation by criminal gangs and subsequent trafficking in human beings;

24. Recalls that, according to Europol, about 10,000 unaccompanied children have disappeared after arriving in the EU in 2015, and that these children could be victims of trafficking and exposed to all kinds of exploitation and abuse; calls on the Member States to fully implement the asylum package and register children upon their arrival in order to ensure their inclusion in child protection systems; calls on the Member States to increase information sharing in order to better protect migrant children in Europe;

25. Calls on all Member States to effectively guarantee the rights of victims, in particular by providing access to legal aid, legal assistance and representation, psychological and medical support, information on their rights to assistance and health care, including the
right to an abortion for victims of sexual exploitation, their rights regarding access to justice and to a lawyer, and any possible compensation as well as possible access to witness protection programmes; notes that Directive 2012/29/EU lays down minimum standards on the rights, support and protection of victims of crime and that the implementation of Directive 2011/36/EU should be analysed in the light of the provisions of Directive 2012/29/EU; notes that special measures may also be put in place to protect victims from further victimisation and trauma during investigations and trials;

26. Stresses that prevention in terms of taking appropriate measures, such as education and training, to discourage and reduce demand, as well as information and awareness-raising campaigns, including on modern slavery, research and educational programmes aimed at reducing the risk of people becoming victims of trafficking, is of crucial importance to effectively combat trafficking in human beings; calls on the Commission and the Member States, therefore, to take targeted actions to discourage demand for THB; also calls on the Member States to put in place stronger penalties against the many employers and landlords who facilitate human trafficking by further exploiting individuals; asks that the Member States and law enforcement authorities also strengthen their cooperation with labour, social, health and safety inspectors, as well as fisheries inspectors;

27. Calls on the Commission to assess the effectiveness of cooperation between the Member States and Europol in combating trafficking in human beings; stresses the importance of systematic exchange of data and of all Member States contributing to the European databases used for this purpose, including the Europol databases Focal Point Phoenix and Focal Point Twins; stresses the need for border guards and coast guards to have access to Europol databases;

28. Calls on the Commission to investigate further, in the light of Directive 2011/36/EU, the role of the internet, social networks and new technologies in trafficking in human beings, in particular with regard to sexual exploitation on pornographic sites and sites offering online sex shows;

29. Calls on Europol and the Member States to strengthen their action against recruiters, whether via a proactive approach or on the basis of a victim’s testimony, in accordance with Article 9 of Directive 2011/36/EU; stresses that recruiters use a variety of channels, including social networks and internet sites (online recruitment agencies); calls on the Commission to expand the mandate of Europol’s EU Internet Referral Unit (IRU) in the fight against trafficking in human beings;

30. Calls on the Commission to develop a privileged partnership with the major internet companies and to keep Parliament duly informed;

31. Calls for better implementation and monitoring of Article 8 of Directive 2011/36/EU, so as to ensure the non-prosecution of and non-application of sanctions or penalties to victims of THB, and emphasises that this includes the non-application of sanctions or penalties to people in prostitution and non-punishment for irregular entry or residence in countries of transit and destination;

32. Stresses the importance of ‘following the money’ as a key strategy for investigating and prosecuting the organised crime networks that profit from THB, and calls on Europol and Eurojust to reinforce their capacities in the field of combating THB; calls for the Member
States to work closely with Europol and each other in order to investigate the financial aspects and the laundering of money in human trafficking cases; stresses that Member States should strengthen cooperation in freezing and confiscating the assets of individuals involved in trafficking, as this could be an effective means of changing THB from a ‘low risk-high profit’ business into a ‘high risk-low profit’ one; calls on the Member States, in this context, to use more efficiently all existing tools available such as mutual recognition of court judgments, joint investigation teams and the European investigation order; believes that the confiscated assets of people convicted of trafficking offences should be used to support and compensate victims of trafficking; also notes that the huge funds raised by human trafficking and exploitation fund other kinds of serious crime;

33. Takes the view that Article 11(5) of Directive 2011/36/EC should be expanded to introduce aid for future integration (language learning, familiarisation with the culture and community, etc.) where the victims’ circumstances allow them to opt for a residence permit;

34. Insists on the need for Member States to enhance their police and judicial cooperation, particular via Europol and Eurojust, including information sharing and combating online recruitment of people for THB;

35. Calls for the Member States to implement Directive 2011/36/EC, as well as all other relevant legal frameworks on THB, without delay; urges the Commission to take legal action against Member States neglecting their obligations;

36. Stresses that non-governmental organisations (NGOs) and individuals working to protect and help victims of THB should not be held responsible for any crime;

37. Calls on the Member States to educate their citizens on THB and victim identification through information campaigns; calls for the Member States and the EU to target funding to NGOs supporting victims of THB;

38. Calls on the Commission to examine how the different approaches to prostitution in national legislation affect trafficking in human beings;

39. Calls for the EU to pay attention to and make visible the new forms of trafficking and exploitation of human beings, including reproductive exploitation and trafficking in newborn children;

40. Calls for a consistent approach to prosecution of offences related to human trafficking, and for the Member States to step up their investigations and prosecutions; calls, in that regard, for the Member States to increase cross-border cooperation and collaboration with the relevant EU agencies;

41. Calls on the Member States to include the principle of non-refoulement in their anti-trafficking directives, following the example of the UN Trafficking Protocol and the Council of Europe Trafficking Convention, and in accordance with states’ obligations under international refugee law and international human rights law;

42. Recalls that training of practitioners and officials is crucial to the early identification of potential victims and the prevention of crime; calls therefore on the Member States to
fully apply Article 18(3) of Directive 2011/36/EU and to share best practices;

43. Calls on the Commission to assess the need to review the mandate of the future European Public Prosecutor’s Office to include powers, once established, to tackle trafficking in beings;

44. Calls for the EU to provide, through Eurostat, estimates on the number of victims of trafficking in human beings, registered or otherwise, in line with the general pattern followed by organisations such as the International Organisation for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC) and the International Labour Organisation (ILO);

45. Calls for stronger cooperation with online platforms on projects aimed at raising awareness of the risks of being targeted and recruited over the internet and via social networks;

46. Considers that migrants are particularly vulnerable to trafficking, especially children; calls on the Member States to increase cooperation, including in hotspots, in identifying potential victims and combating traffickers and smugglers; recalls, in this regard, the obligation of Member States to pay special attention to child victims of trafficking, including unaccompanied minors coming from third countries, and to provide special protection to children in criminal procedures – the best interests of the child must be considered paramount at all times (Articles 13, 14,15 and16);

47. Encourages the EU and the Member States to conduct research into the newest trends and forms of THB, including the influence that the current migration crisis could have on THB, in order to address the new developments with an adequate and targeted response;

48. Considers that safe and legal channels of entry into the EU would decrease vulnerability and trafficking in human beings;

49. Appreciates the work of the EU Anti-Trafficking Coordinator, who is responsible for improving coordination and coherence among EU institutions, EU agencies, Member States and international actors and developing existing and new EU policies to address trafficking in human beings; is of the view, however, that in order to accelerate the EU’s response to THB, the mandate of the EU Anti-Trafficking Coordinator could be extended.
## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

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<th>Date adopted</th>
<th>7.4.2016</th>
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| **Result of final vote** | +: 31  
|              | -: 1    
|              | 0: 18   |
| **Members present for the final vote** | Jan Philipp Albrecht, Malin Björk, Michał Boni, Caterina Chinnici, Rachida Dati, Cornelia Ernst, Laura Ferrara, Monika Flašíková Beňová, Kinga Gál, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Sophia in ’t Veld, Eva Joly, Sylvia-Yvonne Kaufmann, Timothy Kirkhope, Barbara Kudrycka, Kaspeta Kyenge, Juan Fernando López Aguilar, Monica Macovei, Claude Moraes, Péter Niedermüller, Judith Sargentini, Birgit Sippel, Branislav Škripal, Csaba Sógor, Traian Ungureanu, Kristina Winberg, Tomáš Zdechovský |
| **Substitutes present for the final vote** | Laura Agea, Carlos Coelho, Anna Maria Corazza Bildt, Pál Csáky, Miriam Dalli, Daniel Dalton, Gérard Deprez, Anna Hedh, Jean Lambert, Jeroen Lenaers, Andrejs Mamikins, Morten Helveg Petersen, Emil Radev, Barbara Spinelli, Jaromír Štětina, Elissavet Vozemberg-Vrionidi |
| **Substitutes under Rule 200(2) present for the final vote** | Petras Austrevičius, Herbert Dorfmann, José Inácio Faria, Eugen Freund, David McAllister, Marita Ulvskog |