



**COUNCIL OF
THE EUROPEAN UNION**



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Trafficking in human beings

A major step was taken today in the fight against trafficking in human beings. The Council adopted EU wide minimum rules concerning the definition of criminal offences and the level of sanctions in the area of trafficking in human beings. The new rules also strengthen the prevention of the crime and the protection of victims of trafficking in human beings.

The new directive (PE-CONS 69/10) replaces Framework Decision 2002/629/JHA and applies to all member states but Denmark and the United Kingdom. The latter might still use an opt-in to participate in the new rules at a later stage. Participating member states have two years to transpose the new rules into national legislation.

The new directive also constitutes the first agreement between the Council and the European Parliament in the area of substantive criminal law after the entry into force of the Lisbon Treaty. Before the Lisbon Treaty, EU legislation in criminal law was not decided by both institutions on an equal footing, but by a unanimous decision in the Council after mere consultation of the European Parliament.

Common definitions and levels of penalties

The agreed text widens the definition of the offences which are to be considered trafficking in human beings compared to existing international rules. Instigating, aiding, abetting or the sheer attempt to commit such an offence will also be punishable.

P R E S S

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The new rules also set EU wide maximum penalties of at least five years of imprisonment or, in particular aggravating circumstances, ten years of imprisonment. These aggravating circumstances include situations where:

- the offence was committed against a victim who was particularly vulnerable, e.g. a child;
- the offence was committed in the framework of a criminal organisation;
- the offence has deliberately or by gross negligence endangered the life of the victim;
- the offence was committed by use of serious violence or has caused particularly serious harm to the victim.

Where legal persons are involved in the offence sanctions should include criminal or non-criminal fines and can include other sanctions, such as the exclusion from entitlement to public benefits or aid, the temporary or permanent disqualification from the practice of commercial activities, the placing under judicial supervision or the temporary or permanent closure of establishments.

Jurisdiction

Each member states will have to investigate and prosecute offences committed in whole or in part within its territory or committed by one of its national, even outside of its territory. Member states can chose to go beyond that basic rule by establishing further jurisdiction over an offence committed outside of its territory e.g. where the offence is committed against one of their nationals or against a person who has his or her habitual residence in the territory of that member state. This is also possible where the offender has his or her habitual residence in the territory of that member state.

Non-prosecution of victims

The text also includes a provision which will allow national authorities not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities they have been compelled to commit.

Assistance, support, protection and compensation for victims

Member states shall ensure that assistance and support are provided to victims before, during and for an appropriate time after criminal proceedings in order to enable them to exercise their rights on the standing of victims in criminal proceedings. Additional provisions are set out for child victims, such as physical and psycho-social assistance and the possibility to appoint a guardian or a representative for the child victim where necessary.

Protection measures include access to legal without delay to legal counselling and legal representation as well as possible access to witness protection programmes. Child victims should benefit from a number of additional measures including setting conditions for the interviews of the child during the proceedings. The child should, e.g., be interviewed in premises designed or adapted for this purpose, by or through trained professionals and, if possible, by the same persons for all interviews necessary.

Member States will also have to ensure that victims of trafficking in human beings have access to existing schemes on compensation to victims of violent intentional crimes.

Prevention and EU coordination

Prevention measures to be taken by member states include:

- information and awareness raising campaigns to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings;
- intensifying research on the subject;
- promoting regular training for officials likely to come into contact with victims and potential victims of trafficking in human beings.

A future Anti-Trafficking Coordinator (ATC) is also mentioned in the text. This person is supposed to contribute to Commission reports on the progress made in the fight against trafficking in human beings. These reports should be presented to the Council and the European Parliament every two years.