

Amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims

**Proposal for a directive
(COM(2022)0732 – C9-0431/2022 – 2022/0426(COD))**

**Rapporteurs
Eugenia Rodríguez Palop, Malin Björk**

COMPROMISE AMENDMENTS

**COMPROMISE 1- Article 2 and 2a Directive 2011/36/EU and corresponding recitals-
Offences concerning trafficking in human beings and offences concerning trafficking in
human beings committed or facilitated by means of information or communication
technologies**

Covering: AM 129 (RE), AM 130 (RE); AM 131 (EPP); AM 132 (EPP); AM 133 (ECR); AM 134 (Greens); AM 135 (ID); AM 136, 145 (Rapp);

Falling: AM 4 (Rapp), AM 137 (ECR); AM 138 (SD); AM 139 (EPP); AM 140 (Greens); AM 141 (ECR); AM 127 (EPP)

Article 2 is replaced by the following

Article 2

Offences concerning trafficking in human beings

1. Member States shall take the necessary measures to ensure that 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.

2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

3. Exploitation shall include, as a minimum, 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, ~~or~~ forced marriage, ~~or~~ illegal adoption, **surrogacy for reproductive exploitation, exploitation of children in residential and closed-type institutions, or the recruitment of children to commit or participate in criminal activities.**

4. The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.

5. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable offence of trafficking in human beings even if none of the means set forth in paragraph 1 has been used.

6. For the purpose of this Directive, ‘child’ shall mean any person below 18 years of age.

The following Article 2a is inserted

Article 2a. Offences concerning trafficking in human beings committed or facilitated by means of information or communication technologies

Member States shall take the necessary measures to ensure that the intentional acts and means referred to in Article 2(1), and exploitation as set out in Article 2(3) shall include acts committed by means of information and communication technologies

Corresponding Recitals: 1,1a, 2, 2a, 3, 4, 9c, 4a, 4b

Covering: AM 42 (Greens); AM 43 (S&D), AM 44 part 1 (Greens), AM 45 (EPP), AM 46 (Renew), AM 47 (Renew), AM 48 (Greens), AM 49 (S&D), AM 51 (EPP), AM 53 (Greens), AM 54 (EPP), AM 55 (EPP), AM 57 (Renew), AM 58 (Renew), AM 60 (EPP), AM 61 (Greens), AM 62 (ECR), AM 63 (ID-ECR), AM 64 (Renew), AM 65 (Renew), AM 69 (Greens), AM 123 (Rapporteurs),

Falling: AM 50 (ECR), AM 52 (EPP), AM 56 (ID), AM 59 (ID), AM 67 (ECR), AM 68 (ECR), AM 124 (EPP), AM 29, 30, 31, 34, 35, 36, 37 (SD)

Recital 1

Trafficking in human beings is a serious crime, often committed within the framework of organised crime, a gross violation of fundamental rights and explicitly prohibited by the Charter of Fundamental Rights of the European Union. Preventing and combating trafficking in human beings, ***respecting, protecting and promoting the rights of all trafficked victims and supporting them, regardless of their country of origin,*** remains a priority for the Union ***and a legal obligation of the*** Member States.

Recital 1(a) new

Human trafficking has different root causes. Poverty, conflict, inequality, gender based violence, the absence of viable employment opportunities or social support, humanitarian crisis, and discrimination are some among the main factors that make persons, especially women, children and groups in marginalized situation, vulnerable to trafficking.

Recital 2

Directive 2011/36/EU of the European Parliament and the Council constitutes the main Union legal instrument on preventing and combating trafficking in human beings and protecting the victims of this crime. That Directive sets out a comprehensive framework to address trafficking in human beings by establishing minimum rules concerning the definition of criminal offences and sanctions. It also includes common provisions to strengthen the assistance, prevention and protection of *all* victims, taking into account the gender, *disability and child* perspectives *particularly considering the needs of unaccompanied children and children deprived of parental care.*

Recital 2a

There is also a need to adopt an intersectional approach to all measures that aim to prevent and combat trafficking in human beings, as well as to assist to support and protect victims while taking into account their specific needs.

Recital 9c(new)

Persons with any type of disability, in particular girls with disabilities, are at an increased risk of becoming victims of trafficking. Perpetrators are able to target them specifically because of their increased vulnerability and the barriers they face in accessing justice. Since Member States are parties to the United Nations' Convention on the rights of Persons with Disabilities, they should consider the specific needs of victims of trafficking with disabilities when providing these victims support measures, and should ensure that civil servants receive adequate training so that they can assist victims in a disability-friendly manner. Member States should also take the necessary measures to ensure that victims of trafficking with disabilities, are able to participate effectively in legal proceedings.

Recital 3

The EU Strategy on Combatting Trafficking in Human Beings 2021-2025²⁹ sets out a policy response adopting a multi-disciplinary and comprehensive approach from prevention through protection of victims, to prosecution and conviction of traffickers. It included a series of actions to be implemented with the strong involvement of civil society organisations. In order to address evolving trends in the area of trafficking in human beings, as well as shortcomings identified by the Commission, *experts, and civil society organisations working in the field*, and to further step up efforts against this crime, it is necessary, nevertheless, to amend Directive 2011/36/EU. Identified threats and trends, which require the adoption of new rules concern in particular regarding the modi operandi of traffickers, including the commission or facilitation of offences concerning trafficking in human beings by means of information and communication technologies. Identified shortcomings of the criminal law response requiring an adaptation of the legal framework relate to offences concerning trafficking in human beings committed in the interest of legal persons, to the data collection system, *to the cooperation and*

coordination between Member States as well as to the national systems aimed at the early detection, identification of, specialised assistance to and support for victims of trafficking.

Recital 4

In order to tackle the steady increase of the number and relevance of offences concerning trafficking in human beings committed for purposes other than sexual or labour exploitation, it is necessary to include forced marriage, illegal adoption, *surrogacy for reproductive exploitation and exploitation of children in residential and closed-type institutions* in the forms of exploitations explicitly listed in the Directive and to ensure that the Member States address within their national legal systems the widest range of forms of exploitation, insofar as these fulfil the constitutive elements of trafficking in human beings. *In addition, children are considered to be one of the most vulnerable groups targeted by organised criminal groups involved in trafficking of human beings. Often, these children are exploited by criminal groups by being recruited into joining these organised criminal groups to later commit criminal activities. In order to address this increasing phenomenon, it is essential for Member States to ensure that the recruitment of children to commit or participate in criminal activities is a form of exploitation as defined in this Directive.*

Recital 4(a) (new)

Children placed in residential and closed-type institutions are a group particularly vulnerable to human trafficking. They can be placed or kept in these institutions for the purpose of exploitation and profit or trafficked during and after their placement. This vulnerability persists also when they leave such institutions after coming of age.

Recital 4(b)(new)

In order for Member States to comply with their primary responsibility to respect, protect and promote the rights of all trafficked persons regardless of their country of origin, Member States should ensure that the standard of due diligence along with the principle of State responsibility, affirming the centrality of victims as rights-holders, are incorporated in their national legislation. Member States should also ensure that their national frameworks to prevent and combat trafficking in human beings contribute to the elimination of all forms of discrimination on grounds such as sex, gender, race or ethnic origins, disability, age, sexual orientation, gender identity, gender expression and sex characteristics, or a combination of those. Member States should ensure that their national frameworks are implemented in a way that does not affect victims negatively.

Alternative CA 1a: same as CA1 without the word “surrogacy for”.

COMPROMISE 1- Article 2 and 2a Directive 2011/36/EU and corresponding recitals- Offences concerning trafficking in human beings and offences concerning trafficking in

human beings committed or facilitated by means of information or communication technologies

Covering: AM 129 (RE), AM 130 (RE); AM 131 (EPP); AM 132 (EPP); AM 133 (ECR); AM 134 (Greens); AM 135 (ID); AM 136, 145 (Rapp);

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2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

3. Exploitation shall include, as a minimum, 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, ~~or forced marriage, or illegal adoption~~, **reproductive exploitation, exploitation of children in residential and closed-type institutions, or the recruitment of children to commit or participate in criminal activities.**

4. The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.

5. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable offence of trafficking in human beings even if none of the means set forth in paragraph 1 has been used.

6. For the purpose of this Directive, ‘child’ shall mean any person below 18 years of age.

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Article 2a. Offences concerning trafficking in human beings committed or facilitated by means of information or communication technologies

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Falling AM 50 (ECR), AM 52 (EPP), AM 56 (ID), AM 59 (ID), AM 67 (ECR), AM 68 (ECR) AM 124 (EPP) AM 29, 30, 31, 34, 35, 36, 37 (SD)

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Human trafficking has different root causes. Poverty, conflict, inequality, gender based violence, the absence of viable employment opportunities or social support, humanitarian crisis, and discrimination are some among the main factors that make persons, especially women, children and groups in marginalized situation, vulnerable to trafficking.

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Recital 2a

There is also a need to adopt an intersectional approach to all measures that aim to prevent and combat trafficking in human beings, as well as to assist to support and protect victims while taking into account their specific needs.

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Persons with any type of disability, in particular girls with disabilities, are at an increased risk of becoming victims of trafficking. Perpetrators are able to target them specifically because of their increased vulnerability and the barriers they face in accessing justice. Since

Member States are parties to the United Nations' Convention on the rights of Persons with Disabilities, they should consider the specific needs of victims of trafficking with disabilities when providing these victims support measures, and should ensure that civil servants receive adequate training so that they can assist victims in a disability-friendly manner. Member States should also take the necessary measures to ensure that victims of trafficking with disabilities, are able to participate effectively in legal proceedings.

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Recital 4

In order to tackle the steady increase of the number and relevance of offences concerning trafficking in human beings committed for purposes other than sexual or labour exploitation, it is necessary to include forced marriage, illegal adoption, ***reproductive exploitation and exploitation of children in residential and closed-type institutions*** in the forms of exploitations explicitly listed in the Directive and to ensure that the Member States address within their national legal systems the widest range of forms of exploitation, insofar as these fulfil the constitutive elements of trafficking in human beings. ***In addition, children are considered to be one of the most vulnerable groups targeted by organised criminal groups involved in trafficking of human beings. Often, these children are exploited by criminal groups by being recruited into joining these organised criminal groups to later commit criminal activities. In order to address this increasing phenomenon, it is essential for Member States to ensure that the recruitment of children to commit or participate in criminal activities is a form of exploitation as defined in this Directive.***

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Children placed in residential and closed-type institutions are a group particularly vulnerable to human trafficking. They can be placed or kept in these institutions for the purpose of exploitation and profit or trafficked during and after their placement. This vulnerability persists also when they leave such institutions after coming of age.

Recital 4(b)(new)

In order for Member States to comply with their primary responsibility to respect, protect and promote the rights of all trafficked persons regardless of their country of origin, Member States should ensure that the standard of due diligence along with the principle of State responsibility, affirming the centrality of victims as rights-holders, are incorporated in their national legislation. Member States should also ensure that their national frameworks to prevent and combat trafficking in human beings contribute to the elimination of all forms of discrimination on grounds such as sex, gender, race or ethnic origins, disability, age, sexual orientation, gender identity, gender expression and sex characteristics, or a combination of those. Member States should ensure that their national frameworks are implemented in a way that does not affect victims negatively.

COMPROMISE 2- Article 4 Directive 2011/36/EU and corresponding recitals - Penalties

Covering: 143 (SD); 144 (Greens); 146 (Rapp); 147 (Greens); 148 (ECR); 149 (SD); 150 (EPP); 151 (SD); 152 (ECR); 153, 161 (SD); 154 (Greens); AM 70 (EPP), Am 71 (ECR), AM 72 (Greens)

Falling: 155 (ECR)

Article 4 is replaced by the following:

Article 4

Penalties

1. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least five years of imprisonment.

2. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least 10 years of imprisonment where that offence:

(a) was committed against a victim who was particularly vulnerable, which, in the context of this Directive, shall include at least *the grounds of residence status, pregnancy, a situation of dependence or a state of physical, mental, intellectual or sensory disability or distress, living in institutions, such as retirement homes, children's homes, reception centres, detention facilities or accommodation centres for asylum seekers, as well as victims who are stateless and child victims;*

(b) was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (1);

(c) deliberately or by gross negligence endangered the life of the victim *or caused the death of the victim*;

(d) was committed by use of serious violence or has caused particularly serious *physical or psychological* harm to the victim;

(da) was committed by means of information or communication technologies by creating sexually explicit content featuring a victim of trafficking, including sharing or threatening to share such content, or obtaining economic benefits from it, which places or keeps the victim in a situation of exploitation or vulnerability and causes significant psychological harm;

(db) was committed by means of causing the victim to take, use or be affected by drugs, alcohol or other intoxicating substances; or

(dc) the offender has previously been convicted of offences of the same nature;

3. Member States shall take the necessary measures to ensure that the fact that an offence referred to in Article 2 was committed by public officials in the performance of their duties is regarded as an aggravating circumstance.

4. Member States shall take the necessary measures to ensure that an offence referred to in Article 3 is punishable by effective, proportionate and dissuasive penalties, which may entail surrender.

(a) Member States shall take the necessary measures to ensure that, in addition to the penalties referred to in paragraphs 1 and 2, offences and means referred to in Article 2(1), and exploitation as set out in Article 2(3) are punishable by fines proportionate to the gravity and duration of the harm caused to the victim of human trafficking, as well as to the financial benefits accrued by committing the offence.

Corresponding Recital:

Covering: AM 70 (EPP), AM 71 (ECR), AM 72 (Greens)

Recital 5

5) An increasing number of offences concerning trafficking in human beings is committed or facilitated by means of information or communication technologies *leading to a sharp increase of victims exploited online. The online dimension has become a significant part of trafficking in human beings as* traffickers use the Internet and social media inter alia *as a method to establish comprehensive trafficking networks, communicate with other traffickers, recruit, advertise or exploit victims, exercise control and organise transport and accommodations.*

Internet and social media are also used to distribute exploitative materials. It is therefore important to explicitly *address* the online dimension of trafficking *and the link between the online and offline dimension* of the crime in the legal framework *in all its dimensions from prevention to prosecution*. *In combatting trafficking in human beings online, full use is to be made of existing instruments, such as Directive of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)*.

COMPROMISE 3 (articles 5, 6 and 7) (Directive 2011/36/EU and corresponding recitals

Article 5 Directive 2011/36/EU and corresponding recitals

Covering: AM 157(Left)

Falling: AM 156 (Greens), AM 158 (Greens), AM 159 (ECR), AM 160(S&D)

In Article 5, paragraphs 1 and 2 are amended as follows:

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Articles 2, 3 *and 18a.1* committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person; or
- (c) an authority to exercise control within the legal person.

2. Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the offences referred to in Articles 2, 3 *and 18a.1* for the benefit of that legal person by a person under its authority.

Article 6 - Sanctions on legal persons

Covering: AM 5, 6 (Rapps)

In Article 6, paragraph 1, the followings points b a and bb are added:

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) is subject to criminal or non-criminal fines and, if appropriate, to the following sanctions:

- (a) exclusion from entitlement to public benefits, aid or subsidies;

(b) temporary or permanent closure of establishments which have been used for committing the offence.

(ba) exclusion from participation in public contracts;

(bb) recovery of some or all public benefits, aid, or subsidies granted for up to 12 months preceding the commission of the offences of trafficking;

2. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) for an offence aggravated by any of the circumstances set forth in Article 4(2) is subject, if appropriate, to the following sanctions:

(a) temporary or permanent disqualification from the practice of commercial activities;

(b) placing under judicial supervision;

(c) judicial winding-up.

3. Member States shall ensure that sanctions referred to in paragraphs 1 and 2 are effective, proportionate and dissuasive.

Article 7 - Seizure and confiscation

Covering: AM 162 (S&D), AM 163 (Greens)

Falling: AM 164 (EPP)

in Article 7, the following paragraph 1a is inserted:

1. Member States shall take the necessary measures to ensure that their competent authorities are entitled to trace, freeze, manage and confiscate, in accordance with Directive EU/XX/YY of the European Parliament and of the Council [Proposed Directive on asset recovery and confiscation, the proceeds derived from, and instrumentalities used or intended to be used for the commission, or contribution to the commission, of the offences referred to in this Directive.

1a. Member States shall take the necessary measures to ensure that frozen and confiscated proceeds derived from, and instrumentalities used for the commission, or contribution to the commission, of the offences referred to in this Directive are used, as a matter of priority, to provide victims support, assistance and protection, including through direct compensation of victims and further invest into investigation and prosecution of trafficking cases.

COMPROMISE 4 - Article 8 and corresponding recitals (Directive 2011/36/UE) - Non-prosecution or non-application of penalties to the victim

Covering: AM 7 (Rapp), AM 165 (Greens), AM 167 (S&D), AM 168 RE (partially covered)

Falling: AM 166 (NI) , AM 169 (ID), AM 170 (EPP), 171 (EPP) (partially falls), 172 (ID)

Article 8 is replaced by the following:

Non-prosecution or non-application of penalties to the victim

1. Member States shall, ~~in accordance with the basic principles of their legal systems~~, take the necessary measures, ***including criminal law provisions and procedural guidelines, to ensure that victims of trafficking in human beings are not held liable for the irregularity of their entry into or stay in a Member State, or for their involvement in unlawful activities*** which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2. ***Member States shall take the necessary measures to discontinue any proceedings against the victim, terminate any restriction of victims' rights, including deprivation of liberty, annul any related penalties and expunge their police and criminal records when competent authorities have failed to apply the non-prosecution and non-application of penalties.***

2. ***Member States shall take the necessary measures to ensure that non-prosecution and non-application of penalties to the victims is not made conditional on the victim's cooperation in the criminal investigation, prosecution or trial without prejudice to Directive 2004/81/EC or provisions of national law transposing that Directive.***

3. ***Member States shall take the necessary measures to ensure that any decision concerning the prosecution and non-application of penalties to the victims is taken following an individual assessment by trained and qualified officials.***

4. ***Member States shall raise awareness and enhance capacities on the implementation of the national provisions adopted pursuant to this article among professionals likely to come into contact with victims, including law enforcement, the judiciary, legal representatives, border management and labour inspectors.***

5. ***Member States shall prohibit any deprivation of liberty, prosecution and application of any penalties in the case of children for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.***

COMPROMISE 5 - Article 9 (Directive 2011/36/EU)- Investigation and prosecution

Covering: AM 8(Rapp), AM 174(S&D), AM 175(Greens), AM 176 (EPP), AM 177(EPP)

Falling: AM 173(NI)

Article 9 is replaced by the following

1. Member States shall ensure that investigation into or prosecution of offences referred to in Articles 2 and 3 is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement.
2. Member States shall take the necessary measures to enable, where the nature of the act calls for it, the prosecution of an offence referred to in Articles 2 and 3 for a sufficient period of time after the victim has reached the age of majority.
3. Member States shall take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2 and 3 are trained accordingly, as well as *to create specialized units within Member States' police forces and prosecution.*
4. *Member States shall ensure that professionals likely to come into contact with victims of trafficking, such as law enforcement authorities, health care personnel, social services, general and specialist support services and judicial authorities, receive evidence-based training and targeted information on a level appropriate to their contacts with victims, to enable them to detect, prevent and address trafficking in human beings and avoid revictimisation. Such training shall be developed in consultation with women's specialist support services and support services specialised in victims of trafficking, and shall be human rights based, victim-centered, gender-, disability-, child-, and language- sensitive and trauma-informed.*
5. *Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases are available to persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2, 2a, and 3. Member States shall ensure that measures taken to detect, prevent, investigate and prosecute the offences referred to in Articles 2, 2a, and 3 are proportionate to the offence committed.*

COMPROMISE 6 - Article 11 Directive 2011/36/EU and corresponding recitals - Assistance, support and protection for victims of trafficking in human beings

Covering: AM 178 (Greens), AM 188 (Greens) (partly), AM 182 (EPP), AM 9 (Rapp), AM 179 (S&D), AM 183 (EPP), AM 186 (EPP), AM 11 (Rapp), AM 191 (Left), AM 190 (Renew), AM 193 (Renew), AM 200 (S&D), AM 203 (Greens), AM 204 (S&D), AM 205 (EPP), AM 10, 13 (Rapp), AM 142 (EPP), AM 209 (S&D), 197 (EPP)

Falling: AM 180 (NI), AM 181 (ID), AM 185 (NI), AM 192 (NI), AM 194 (ID), AM 195 (ECR), AM 198 (NI), AM 199 (NI), AM 9 (Co-Rapp), AM 179 (S&D), AM 184 (EPP), AM 206 (SD), AM 207 (Greens), AM 80 (ID)

Article 11 is replaced by the following:

1. Member States shall take the necessary measures to ensure that ***assistance, support and protection (AM 188 Greens)*** are provided to victims ***in a gender, disability and child sensitive approach and based on an intersectional approach***. Member States shall ensure that assistance, support and protection ***are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings***. ***Member States shall ensure that the victims have access to assistance free of charge and in a language they can understand.***

1a. Member States shall establish whether trafficking victims are stateless or at risk of statelessness and shall take the necessary measures to ensure that assistance and support are provided to those victims taking into account their specific protection needs.

2. Member States shall take the necessary measures to ensure that a person ***is considered to be a victim and treated as such***, as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected to any of the offenses referred to in Articles 2 and 3.

3. Member States shall take the necessary measures to ensure that assistance, support ***and protection*** for a victim are not made conditional on the victim's willingness to cooperate in the criminal investigation, prosecution or trial ***without prejudice to Directive 2004/81/EC or provisions of national law transposing that Directive.***

4. Member States shall take the necessary measures to establish by laws, regulations or administrative provisions, national referral mechanisms aimed at the early ***detection, identification of, assistance to, and support for detected and identified*** victims, in cooperation with relevant support organisations, and to appoint a national focal point for the referral of victims. ***In the process of early detection and identification of victims, Member States shall take the necessary measures to ensure the involvement of relevant civil society organisations and other relevant stakeholders.***

Member States shall establish National Referral Mechanisms with competences in at least the following areas:

(a) with regards to the detection of victims, establishing minimum standards, adapting the procedures to the different forms of exploitation covered by this Directive and setting up contingency plans for sensitive environments;

(b) with regards to the identification of victims, promoting, coordinating and, where appropriate, financing programmes for the identification of those victims, as well as developing tools for risk assessment, including in humanitarian crises;

(c) with regards to the protection of victims, establishing mechanisms to harmonise assistance for those victims and establishing minimum standards in reception centres and programmes referring victims to specific shelter or to psychosocial support resources;

5. The assistance and support measures referred to in paragraphs 1, 1 a and 2 shall be provided on a consensual and informed basis, and shall include ***long-term assistance and*** at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and financial assistance, ***resources for their economic and social recovery through access to education, training and access to labour market*** as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate.

5a. Member States shall take necessary measures to provide specialised facilities for the detected and identified victims of trafficking, including women, unaccompanied and separated minors, and to ensure safe places in shelters; Member States shall ensure the presence of gender-trained staff in reception facilities and to provide adequate support and funding to civil society organisations working with them.

6. The information referred to in paragraph 5 shall cover, where relevant, information on a reflection and recovery period pursuant to Directive 2004/81/EC, and information on the possibility of granting international protection pursuant to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (1) and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (2) or pursuant to other international instruments or other similar national rules.

7. The assistance, support and protection measures provided to the victims shall be adapted to the form of trafficking or exploitation of human beings suffered and the specific needs of the victim. Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, ***a disability-or a serious form of psychological, physical or sexual violence they have suffered.***

Corresponding Recitals:

Covering AM 77 (Left), AM 78 (Renew), AM 79 (Renew), AM 81 (Greens), AM 82 (EPP), AM 83 (Greens), AM 85, AM 90(EPP) AM 188 (Greens), AM 2 (Left) AM 119 (S&D) 122 (S&D)

Falling: AM 89 (EPP), AM 80 (ID) AM 98 (RE), AM 88 (Greens), AM 90 (EPP), AM 110 (S&D), AM 111(S&D), AM 112 (S&D). AM 113 (S&D), AM 114 (S&D), AM 115 (S&D), AM 116 (S&D), AM 118 (S&D), AM 119 (S&D)

Recital 21a (new)

In protecting the victims of trafficking in human beings, full use is to be made of existing instruments on victims' rights such as Directive 2012/29/EU of the European Parliament

and of the Council¹

Recital 8

(8) In order to enhance the national ***prevention*** capability and the national capability to ***detect and*** identify victims at an early stage, and to refer them to the appropriate protection, assistance and support services, it is necessary to establish by laws, regulations or administrative provisions National Referral Mechanisms in the Member States. Establishing formal national referral mechanisms for the referral of victims and appointing national focal points ***for different forms of trafficking*** are essential measures to enhance cross-border cooperation ***and to ensure the early detection, identification, assistance and support to victims through coordination between competent authorities and relevant support organisations. When dealing with child victims, particularly girls, the mechanisms should provide support in a manner that is particularly adapted to their specific needs, as set out in the context of this Directive.***

Recital 8b (new)

Assistance, support and protection to victims of trafficking should not be conditional on their cooperation in the criminal investigation, prosecution or trial for offences related to their situation as victims of trafficking, or on the success of such proceedings. Victims of trafficking should not be detained, charged or prosecuted for the irregularity of their entry into or stay in a Member State, or for their involvement in unlawful activities or excluded from assistance, support and protection measures because of their decision not to cooperate with investigating or prosecuting authorities.

Recital 10 k(new)

Member States should always prioritise an approach based on the protection of the victims' fundamental rights over prosecution when implementing national actions regarding the fight against trafficking, in particular during the identification process

Recital 10 n (new)

In cases of humanitarian crisis, Member States should integrate counter-trafficking measures as part of any emergency response plans. Such measures should be carried out from the onset of any crisis and should include child protection measures.

¹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L, OJ L 315, 14.11.2012, p. 57).

COMPROMISE 7 - Article 11 a (new) Directive 2011/36/EU - Victims of trafficking in need of International Protection

Covering: AM 12 (Rapp), AM 168(Renew), AM 189 (Greens), AM 196(Renew), AM 197 (EPP), AM 208 (S&D), AM 84 Renew

Falling: 108 (ECR)

The following Article 11a is inserted:

Victims of trafficking in need of International Protection

1. Member States shall ensure compliance with the principle of non-refoulement and with the right of victims to apply for international protection or equivalent national status, including when the victim is receiving assistance, support and protection referred to in article 11 and notwithstanding the irregularity of entry into the territory of the Member States or stay- paragraph 3. To that effect, the tasks of the national referral mechanisms referred to in article 11 paragraph 4 shall include close cooperation with asylum authorities and establishing protocols to ensure that assistance, support and protection, is provided to victims of trafficking who are also in need of international protection, taking into account the victim's individual circumstances, including whether they experienced discrimination based on grounds such as gender, sex, race or ethnic origins , disability, age, sexual orientation, gender identity, gender expression and sex characteristics, or a combination of those.

2- Member States shall dedicate appropriate resources and shall take the necessary measures to ensure the rapid and accurate detection and identification of victims of trafficking in human beings, and their referral to international protection procedures by competent authorities, relevant civil society organizations and other relevant stakeholders involved in the identification, reception and processing of irregular migrants The victims shall be informed of their right to apply for international protection, in a language they can understand and at the earliest opportunity.

3. Member States shall , take the necessary measures to ensure that the principle of non-prosecution or non-application of penalties to the victim under Article 8 is applied to victims of trafficking in need of international protection.

4. Member States shall ensure complementarity and coordination between international protection systems and procedures for the protection of victims of trafficking. In doing so, appropriate and effective referral mechanisms shall be in place between the authorities involved in anti-trafficking activities and those responsible for granting international protection.

5. Member States shall ensure that the examination of applications for international protection of victims of trafficking and the assessment of the merits of the application is not linked to a victim's willingness or ability to cooperate with the authorities in the criminal investigation and prosecution of trafficking without prejudice to Directive 2004/81/EC or provisions of national law transposing that Directive.

Corresponding Recitals

Covering AM 110 (S&D), AM 111(S&D), AM 112 (S&D), AM 113(S&D), AM 114(S&D), AM 118 (S&D)

Falling: AM 32, 33, 38, 39, 40, 41(S&D)

Recital 9d (new)

Considering the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954 and the United Nations Convention on the Reduction of Statelessness of 30 August 1961 (the 'UN Conventions on Statelessness'), Member States should take into account the specific needs of stateless persons who are victims of trafficking, as well as take the necessary measures to prevent victims of trafficking from becoming stateless. Member States should also take the necessary measures to establish the identity of the victims of trafficking and to establish and confirm their citizenship and their citizenship status.

Recital 10 a (new)

All Member States should comply with the principle of non-refoulement, which prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-treatment or other serious human rights violation. The principle of non-refoulement binds all Member States in accordance with the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union.

Recital 10 b (new)

Member States should take into account the specific situation of vulnerability of victims of trafficking in need of International Protection in the asylum procedures, including through special procedural guarantees [and their possible exclusion from the border procedure following an individual assessment carried out by the national authorities in accordance with Regulation EU/XX/YY of the European Parliament and of the Council Proposed Regulation establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU] and special reception needs in accordance with Directive

EU/XX/YY of the European Parliament and of the Council [Proposed Directive on laying down standards for the reception of applicants for international protection].

Recital 10c (new)

Particular attention should be paid by Member States to prevent victims for being re-trafficked into the Union when carrying out transfers under the Regulation EU/XX/YY of the European Parliament and of the Council [Proposed Regulation on asylum and migration management and amending Council Directive (EC) 2003/109 notably by not-transferring them to the country where they were exploited when they first arrived or where the offenders are present, thereby leaving them more exposed to the risk of being re-trafficked and re-traumatised, without prejudice to the right to family life.

Recital 10d (new)

It is important to prevent victims having to choose between the asylum procedure and claim a residence permit under the Council Directive 2004/81/EC of 29 April 2004. Member States should ensure the complementarity between procedures.

Recital 10e (new)

Abduction, incarceration, rape, sexual enslavement, forced labour, removal of organs, physical beatings, starvation, the deprivation of medical treatment, among others are inherent to trafficking. These constitute serious violations of human rights, which might amount to persecution. Furthermore, victims of trafficking might be at risk of persecution or other serious human rights violations if they return to their home country. Such persons need international protection as provided for in the Convention Relating to the Status of Refugees and the Directive EU/XX/YY of the European Parliament and of the Council [Proposed Directive on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted], in international human rights law or others forms of protection under national law.

Recital 10f (new)

The lack of safe and legal migration opportunities, humanitarian crises and the general demand for cheap and exploitative labour, services and acts, combined with the lack of legal protection, exposes people to a considerable risk of exploitation and abuse and exacerbate the exposure of migrants, refugees and asylum-seekers to traffickers.

COMPROMISE 8 - articles 12, 13, 14, 15, 16 Directive 2011/36/EU and corresponding Recitals - on child victims

Article 12 - Protection of victims of trafficking in human beings in criminal investigation and proceedings

Covering: AM 210 (EPP), AM 211 (S&D)

Article 12 – paragraph 2

in Article 12, paragraph 2 is replaced by the following:

"2. Member States shall ensure that victims of trafficking in human beings have access without delay to legal counselling, and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be ***provided in a language that they can understand and*** free of charge ~~where the victim does not have sufficient financial resources.~~

Corresponding Recital

Covering: AM 121, (S&D)

Recital 10m

(10m) If protected and assisted, victims are less likely to be at risk of being re-victimized and re-trafficked, and they are likely to be more open to participating voluntarily in criminal proceedings by giving evidence against traffickers, once trust has been built with support services and authorities.

Article 13 - General provisions on assistance, support and protection measures for child victims of trafficking in human beings

Covering : AM 212 (S&D), AM 213 (Greens), 216 (S&D) AM 202 (EPP), AM 201 (EPP)

Article 13 – paragraphs 2a and 2b (new)

in Article 13, the following paragraph is added:

2a. Member States shall ensure that reporting procedures are safe, confidential and accessible for children, in accordance with their age and maturity (213, Greens, 216 S&D). Member States shall take the necessary measures to detect and identify early child victims of trafficking who give any indication that they could be at risk of persecution in need of international protection and referred to the competent national asylum authorities in accordance with article 11a (212 S&D).

Article 14 paragraphs 1 and 2 are replaced by the following

Covering: AM 214 (Left), AM 215 (Left), AM 216 (S&D), AM 220 (Left), AM 202 (EPP), AM 201 (EPP)

1. Member States shall take the necessary measures to ensure that the specific actions and support services to assist and support child victims of trafficking in human beings, in the short and long term, in their physical and psycho-social recovery, are undertaken following an

individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child, including programs to support their transition to emancipation and adulthood in order to avoid re-trafficking. Within a reasonable time, Member States shall provide access to education for child victims and the children of victims who are given assistance and support in accordance with Article 11, in accordance with their national law. ***Member States shall provide accommodation for child victims without depriving them of liberty.***

2. Member States shall appoint a guardian or a representative for a child victim of trafficking in human beings from the moment the child is identified by the authorities where, by national law, the holders of parental responsibility are, as a result of a conflict of interest between them and the child victim, precluded from ensuring the child's best interest and/or from representing the child. ***This provision shall apply also when a child victim of trafficking is under the guardianship of a public or a private institution.***

In article 14 the following paragraphs are inserted

3a. Member States shall ensure that a guardian is appointed to unaccompanied child victims of trafficking to represent them, assist them and act on their behalf, as applicable, in order to safeguard their interests and general well-being and so that the unaccompanied children can benefit from the rights under this Directive. Member States shall also take the necessary measures to determine the identity and citizenship of the unaccompanied child and to find their family, provided that this is in the best interest of the child.

3b. Child victims shall have access to specialised child protection and support services, including child friendly shelters and facilities. Member States shall ensure that support measures for protection are adequately afforded to those child victims who go through adoption and welfare services.

Corresponding Recitals

Covering: AM 213 (Greens)

Recital 10 o (new)

Member States should ensure that free psychological, psychosocial, emotional and educational support is provided to child victims in accordance with their age and maturity. Support should also be provided to children who have witnessed trafficking or children who became deprived of parental care as a result of trafficking.

Article 15 - Protection of child victims of trafficking in human beings in criminal investigations and proceedings

Covering : AM 128 (Left), AM 217(S&D), AM 218 (S&D), AM 219 (EPP), AM 221 (EPP),

in Article 15, paragraph 2 a is amended as follows:

Article 15 – paragraph 2

2. Member States shall, in accordance with the role of victims in the relevant justice system, ensure that child victims have access without delay to free legal counselling *in a language they can understand* and to free legal representation, including for the purpose of claiming compensation.

in Article 15, paragraph 3 a is amended as follows:

“(a) interviews with the child victim take place without ~~unjustified~~ delay after the facts have been reported to the competent authorities;”

Article 16 - Assistance, support and protection for unaccompanied child victims of trafficking in human beings

Covering : AM 128, AM 222 (Left), AM 219, AM 221 (EPP)

Article 16 para 1 is replaced by the following

1. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, as referred to in Article 14(1), take due account of the personal and special circumstances of the unaccompanied child victim. *Law enforcement authorities and other professions likely to come in contact with victims or potential victims should be adequately trained for assisting and supporting unaccompanied minors.*

Article 16 para 4 is replaced by the following

4. Member States shall take the necessary measures to ensure that, in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative where the child is unaccompanied or separated from its family. *Those persons shall receive specialized training to take particularly into account the vulnerabilities and needs of child victims of trafficking in human beings.*

In Article 16 the following paragraph is inserted

5a (new). Member States shall cooperate and take the necessary measures to trace family of victims or to find and protect unaccompanied child victims who have disappeared.

Corresponding recital:

Covering: AM 128, (co-rapp)

Recital 16b

(16b) Member States should ensure that a guardian is appointed to unaccompanied child victims of trafficking to represent, assist and act on their behalf in order to safeguard their

best interests and general well-being. When, in accordance with this Directive, a guardian and/or a representative should be appointed for a child, those roles may be performed by the same person or by a legal person, an institution or an authority.

COMPROMISE 9- Article 17 Directive 2011/36/EU and corresponding Recitals- Compensation to victims

Covering: AM 14, 15, 16 (Rapps), AM 223 (Greens), AM 226 (EPP) AM 163, 227 (Greens)

Falling: 224 (NI), 225 (NI)

Article 17 is replaced by the following

Compensation to victims

-1a. Member States shall ensure that the victims of trafficking have the right to an effective and in due time legal remedy under national law in the event of a breach of obligations deriving from this Directive.

1. Member States shall ensure that *all* victims of trafficking in human beings have access to effective schemes of compensation ~~to victims of violent crimes of intent~~ regardless of whether a judicial process has been initiated.

1a. Member States shall take the necessary measures to ensure that compensation awarded to a victim of trafficking in human beings as a result of a decision adopted in criminal or civil proceedings is paid in due time after the adoption of the decision by the Member State concerned to the victim. The Member State concerned shall pursue those liable for that compensation to reimburse the compensation advanced by the State to the victim.

2. Member States shall establish a national victims fund or a similar instrument according to their national legislation, with the frozen and confiscated proceeds derived from, and instrumentalities used for the commission, or contribution to the commission, of the offences referred to in this Directive in order to pay compensation to victims.

Corresponding recital:

Recital 7

Covers: AM 1 (Rapp), AM 73(Greens), AM 74 (EPP), AM 162 (S&D)

Falls: AM 75 (NI)

(7) In combatting trafficking in human beings, full use is to be made of existing instruments on the freezing and confiscation of proceeds and instrumentalities of crime, such as Directive EU/XX/YY of the European Parliament and of the Council [Proposed Directive on asset

recovery and confiscation)³⁰. ***Frozen and confiscated instrumentalities*** and proceeds from the offenses referred to in Directive 2011/36/EU ***should be used, as a matter of priority*** to support victims' assistance and protection, including through direct compensation of victims. ***Where it is not possible to use frozen and confiscated instrumentalities and proceeds for victims' assistance, support and protection through direct compensation, frozen and confiscated assets should be used for social purposes, in particular through assignment to organizations carrying out work of social interest to assist and support victims of trafficking. Frozen and confiscated assets should not constitute the only means of providing compensation, support, or assistance to victims. Member States should, to that effect, establish a national fund or a similar instrument for victims of trafficking and to further invest into investigation and prosecution of trafficking cases.***

COMPROMISE 10 - Article 18 Directive 2011/36/EU and corresponding Recitals - Prevention

Covering: AM 229 (EPP), AM 230 (EPP), AM 231 (Left), AM 232 (Left), AM 233 (EPP), AM 234 (SD), AM 235 (EPP), AM 236 (Greens), AM 237 (SD), AM 239 (EPP), AM 240 (EPP), AM 241 (Left), AM 242 (Greens), AM 18 (Rapp), AM 265 (Left), AM 17 (Rapp), AM 126 (RE)

Falling: AM 228 (NI), AM 238 (NI), AM 267 (Rapp), AM 86 (NI)

Article 18 is replaced by the following

Prevention

1. Member States shall ***allocate the necessary resources and*** take appropriate measures, such as education, training and ***campaigns,, with a specific attention to the online dimension, to target potential and current users*** to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.

1a. In the case of children, Member States shall ensure that national child protection systems, including residential or closed-type institutions, develop specific plans to prevent trafficking in human beings.

2. Member States shall take appropriate action, in a gender sensitive and child friendly way based on an intersectional approach, including through the Internet, such as information and awareness-raising campaigns, research and education programmes, including the promotion of digital literacy and skills, ***for potential victims, specifically targeted at women and girls, and*** where appropriate in cooperation with relevant civil society organisations and other stakeholders ***such as the private sector and online platforms,*** aimed at raising awareness and reducing the risk of people, especially children ***and persons with disabilities,*** becoming victims of trafficking in human beings.

2a. In addition, Member States shall take further appropriate action, such as education programmes and information and awareness-raising campaigns, aimed at increasing

knowledge, particularly among men and boys, of the impact of negative attitudes, behaviours, and gender stereotypes that promote the exploitation of women and girls and thereby contribute to trafficking. Member States shall ensure that awareness-raising campaigns are victim-centred and aim at increasing understanding among the public of the driving factors of trafficking, placing special attention to its gendered dimension, discrimination based on racial and ethnic origin, and situations of vulnerability, as well as at challenging harmful stereotypes and changing norms that justify exploitation and abuse.

2b. Member States shall take measures to conduct in-depth qualitative research to analyse the relationship between situations of vulnerability and exposure to risks of trafficking including research to examine the nexus between gender and trafficking situations, in particular less visible forms of trafficking such as domestic servitude and organ removal, taking into account an intersectional approach. Research shall also examine the root causes, prevalence, impact, victims, perpetrators, manifestations, channels and the need for support and protection services.

3. Member States shall *allocate the necessary resources in order to conduct regular specialised mandatory gender-, child-, disability- and gender sensitive* training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, *judges, welfare officers, social workers and hospital workers* aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings.

~~4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.~~

4a. Member States shall incorporate anti-trafficking measures as part of their emergency response plans and facilitate cooperation and coordination between each other in order to prevent and reduce the occurrence of trafficking in human beings in such contexts, in close cooperation with the EU anti-trafficking coordinator (EU ATC).

5. *Member States shall put in place effective, accessible and independent complaint mechanisms. Such mechanisms would contribute to the early detection, identification of, assistance to and support for victims of trafficking. Complaints may be put forward by trusted third parties, such as NGOs, trade unions, or migrant workers' organisations, on behalf of the victim under the condition that the victim has given consent. Coming forward with a complaint shall not lead to any reprisals for the victim, particularly in relation to their immigration status.*

Corresponding Recital: 9a (new)

Covering: (AM 100, Greens)

(9a) In order to achieve the objective of discouraging the demand that fosters trafficking, criminal justice efforts need to be combined with other measures. Such measures should include victim-centre information and awareness-raising campaigns, training, including training specifically designed for men, education activities promoting equality and combating sexist stereotypes, racism, and gender based violence, as well as research to analyse the relationship between situations of vulnerability and exposure to risks of trafficking.

COMPROMISE 11- Article 18a Directive 2011/36/EU and corresponding Recitals

Covered: AM 245 (EPP), AM 249 (Renew), AM 265 (Left), AM 255 S&D

Falls: AM 243 (Renew), AM 244 (ECR), AM 246 (Renew), AM 247 (Renew), AM 248 (ECR) AM 252 (S&D), AM 256 (ECR), AM 258 (Renew), AM 259 (Renew), AM 260 (Renew), AM 261 (Renew), AM 263 (ECR), AM 264 (S&D), AM 266 (ECR), AM 250 (Greens), , AMs 19, 20 (Left), AM 96 Renew, 97 (Renew), 102 (Renew), 93 (ECR), 244 (ECR), AM 262 (Left), AM 254 (Renew), AM 257 (Renew)

The following Article 18 a is inserted

Offences concerning the use of services which are the object of exploitation extracted from (AM 245 EPP) a victim of an offence concerning trafficking in human beings

1. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall take the necessary measures to establish as a criminal offence the use of service ***of people*** which are the objects of ***exploitation of the prostitution of others or other forms of sexual*** exploitation as referred to in Article 2.

1a. Member States shall also consider taking measures regarding those who solicit, accept or obtain a sexual act from a person in a situation of prostitution in exchange for remuneration, the promise of remuneration, the provision of a benefit in kind or the promise of such a benefit.

2. ***For other cases of exploitation referred to in Article 2, Member States shall take the necessary measures to establish as a criminal offence the use of such services when the user knew or could have reasonably known that the person was a victim of such exploitation.***

2a. Member States shall take the necessary measures to ensure that an offence as established in accordance with paragraph ***1 and 2 are*** punishable by effective, proportionate and dissuasive penalties and sanctions.

Corresponding recitals 9, 9a (new)

Covering: (AM 3, Rapp), AM 92(Greens) ,AM 95 (S&D), 94(EPP), AM 99, Left, (AM 92, Greens), (AM 91 Renew)

(9) In order to develop a coherent policy response to tackle demand and further reinforce and harmonise the criminal justice efforts on demand and supply (94, EPP) reduction across Member States, it is important to criminalise the use of services and acts which are the objects of exploitation provided by a victim of an offence concerning trafficking in human beings. Establishing this as a criminal offence is part of a comprehensive approach to reduce demand which aims to tackle the high levels of supply and demand that fosters all forms of exploitation and eliminate the current culture of impunity. The offence should not apply to customers who purchase products manufactured under exploitative working conditions, as they are not users of a service. This directive establishes a minimum legal framework in this regard, and Member States are free to adopt or maintain more stringent criminal rules..

(9a) Efforts to criminalise the knowing use of services of victims of trafficking in human beings have not resulted in demand reduction and countries that legislated on demand globally have proven effective. In order to avoid creating a high threshold for achieving prosecutions and missing the Directive's objective of reducing demand, criminal liability should not be restricted to the use of sexual services with the knowledge that the person is a victim of trafficking.

ALTERNATIVE COMPROMISE 11a- Article 18a Directive 2011/36/EU and corresponding Recitals

Covering: AM 245 (EPP), AM 249 (Renew), AM 265 (Left), AM 255 S&D

Falling: AM 243 (Renew), AM 244 (ECR), AM 246 (Renew), AM 247 (Renew), AM 248 (ECR) AM 252 (S&D), AM 256 (ECR), AM 258 (Renew), AM 259 (Renew), AM 260 (Renew), AM 261 (Renew), AM 263 (ECR), AM 264 (S&D), AM 266 (ECR), AM 250 (Greens), , AMs 19, 20 (Left), AM 96 Renew, 97 (Renew), 102 (Renew), 93 (ECR), 244 (ECR), AM 262 (Left), AM 254 (Renew), AM 257 (Renew)

The following Article 18 a is inserted

Offences concerning the use of services which are the object of exploitation extracted from (AM 245 EPP) a victim of an offence concerning trafficking in human beings

1. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall take the necessary measures to establish as a criminal offence the use of service ***of people*** which are the objects of ***exploitation of the prostitution of others or other forms of sexual*** exploitation as referred to in Article 2.

2. For other cases of exploitation referred to in Article 2, Member States shall take the necessary measures to establish as a criminal offence the use of such services when the user knew or could have reasonably known based on factual evidence available on the individual case at the time when the service was used, that the person was a victim of such exploitation

2a. Member States shall take the necessary measures to ensure that an offence as established in accordance with paragraph 1 and 2 are punishable by effective, proportionate and dissuasive penalties and sanctions.

Corresponding recitals 9, 9a (new)

Covering: (AM 3, Rapp), AM 92(Greens) ,AM 95 (S&D), 94(EPP), AM 99, Left, (AM 92, Greens), (AM 91 Renew)

(9) In order to develop a coherent policy response to tackle demand and reduction across Member States, it is important to criminalise the use of services and acts which are the objects of exploitation provided by a victim of an offence concerning trafficking in human beings. Establishing this as a criminal offence is part of a comprehensive approach to reduce demand which aims to tackle the high levels of supply and demand that fosters all forms of exploitation and eliminate the current culture of impunity. The offence should not apply to customers who purchase products manufactured under exploitative working conditions, as they are not users of a service. This directive establishes a minimum legal framework in this regard, and Member States are free to adopt or maintain more stringent criminal rules. Member States should be able, for example, to broaden the scope of offense by criminalising the purchase of sexual acts as a tool for preventing and combating trafficking in human beings.

(9a) Efforts to criminalise the knowing use of services of victims of trafficking in human beings have not resulted in demand reduction and countries that legislated on demand globally have proven effective. In order to avoid creating a high threshold for achieving prosecutions and missing the Directive's objective of reducing demand, criminal liability should not be restricted to the use of sexual services with the knowledge that the person is a victim of trafficking.

COMPROMISE 12 Directive 2011/36/EU and corresponding Recitals

Governance - Article 19 National Anti-Trafficking Coordinator (NAT) and Article 20 EU Anti Trafficking Coordinator

Covering : AMs 66 (Greens), 76, 87 (co-Rapps), 107 (EPP), 188 part (Greens), 251 (S&D), AM 253(Left), AM 269 (Left), AM 292 (co-rapp) AM 293 (EPP) AM 270 (EPP)

Falling: AM 272 (rapp), AM 271 (EPP) ,

Article 19 is replaced by the following

Article 19

National anti-trafficking Coordinators

1. Member States shall take the necessary measures to establish national anti-trafficking coordinators (NAC) and provide them with the adequate resources necessary to effectively carry out their functions. The national anti-trafficking coordinator shall work with relevant national, regional and local bodies and agencies, particularly law enforcement authorities, national referral mechanisms, and with relevant civil society organisations active in this field. The NAC shall also liaise with the EU Anti-Trafficking Coordinator (EU ATC) as well as with relevant EU agencies.

2. The NAC shall support the government in the development of coherent and effective policies, including the National Action Plans referred to in Article 19c, to assist, support and protect victims.

3. Member States shall also establish independent national rapporteurs or equivalent mechanisms to monitor the impact of anti-trafficking measures, to submit annual reports and monographic reports on matters considered to be serious, urgent or requiring special attention to the competent national authority and to receive complaints. They shall be also responsible for carrying out assessments of root causes and trends in trafficking in human beings, at least the gathering of statistics covered in Article 19a.

(7a) Article 20 is replaced by the following:

Article 20

Coordination of the Union strategy against trafficking in human beings

1. In order to contribute to a coordinated and consolidated Union strategy against trafficking in human beings, Member States shall facilitate the tasks of the EU anti-trafficking coordinator (ATC). In particular, Member States shall transmit to the ATC at least the information referred to in Article 19, the data referred to in 19a *and* 19b. The ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings, *in consultation with national anti-trafficking coordinators, national rapporteurs and equivalent mechanisms, EU agencies and relevant civil society organizations active in the field.*

2. In order to transmit the information referred to in paragraph 1 and to ensure a coherent cooperation, Member States shall establish a coordination structure between the ATC, national anti-trafficking coordinators, national referral mechanisms and relevant civil society organizations active in the field.

Corresponding Recitals

(7a) In order to increase coordination of all bodies working on trafficking in human beings, and reinforce national policy responses, it is necessary to establish National Anti-trafficking Coordinators (NAC). Member States should ensure the allocation of sufficient resources to national anti-trafficking coordinators for the effective and adequate performance of their tasks.

*(29) In the light of the Stockholm Programme and with a view to developing a consolidated Union strategy against trafficking in human beings aimed at further strengthening the commitment of, and efforts made, by the Union and the Member States to prevent and combat such trafficking, Member States should facilitate the tasks of an EU Anti-Trafficking Coordinator **in coordinating the EU's response to trafficking in human beings and developing knowledge and findings on the various aspects of trafficking in human beings, including research into the gender dimension and the particular vulnerability of children,** improving coordination and coherence, avoiding duplication of effort, between Union institutions and related agencies as well as between Member States and inter-national actors, contributing to the development of existing or new Union policies and strategies relevant to the fight against trafficking in human beings or reporting to the Union institutions.*

COMPROMISE 13 - Article 19a - Directive 2011/36/EU and corresponding recitals - Data collection and statistics

Covering: AMs 21, 22, 23, 24, 25, 26, 27 (co-Rapps), 104 (S&D), 105 (EPP), 106 (Greens), 274 (EPP), 275 (Left), 276 (Greens), 277 (NI), 278 and 279 (Renew), 280 (S&D), 281 (Greens), AM 282 (Greens), AM 283 (Greens), 284 and 285 (S&D), 286 (Greens), 287 (S&D), 288 (Greens), 290 (EPP)

Falling: 289 (RE), 273 (rapp)

The following Article 19a is inserted

Article 19 a

Data collection and statistics

1. Member States shall collect statistical data to monitor the effectiveness of their systems to combat offences referred to in this Directive.

2. The statistical data referred to in paragraph 1 shall include ***at least the following comparable data disaggregated by intersectional indicators including gender, racial or ethnic origin, disability, age, citizenship or statelessness and forms of exploitation, where possible under national law:***

(a) the number of ***detected and identified*** victims of offences referred to in Article 2, ***also*** disaggregated by registering organisation, ***including the number of children without parental***

care and unaccompanied minors, whether there are victims who are subjected to more than one form of exploitation;

(aa) the number of victims applying for regularisation and receiving temporary or permanent residence permits as set out in COUNCIL DIRECTIVE 2004/81/EC, on the residence permit issued to third-country nationals who are victims of trafficking in human

(ab) the number of victims holding a part-time or full-time occupation

(ac) the number and type of assistance, support, and protection services accessible to victims, the number of victims accessing or seeking international protection, and the number of cases in which victims benefit from these services and receive compensation;

(ad) the number of detected and identified victims who have been prosecuted or sanctioned for their involvement in unlawful acts which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2 as well as the number of discontinued proceedings, annulled penalties and expunged criminal records for these acts;

(b) the number of suspects of offences referred to in Article 2,

(c) the number of persons prosecuted for offences referred to in Article 2, nature of the final decision to prosecute as well as *the number of legal persons held liable pursuant to Article 5(1) or (2), and the number and type of sanctions against legal persons referred to in Article 6;*

(d) the number of prosecution decisions (charge for offences referred to in Article 2, charge for other criminal offences, decision not to charge, other);

(e) the number of persons convicted for offences referred to in Article 2;

(f) the number of court judgments (acquittal, convictions, other) for offences referred to in Article 2, for first instance, second instance and final court (or high court) decisions;

(g) the number of suspects, persons prosecuted and convicted for offences referred to in Article 18a.1.

2a. Member States shall ensure that the processing of personal data necessary to collect the statistical data referred to in paragraphs 1 and 2 is carried out in a manner that does not allow the identification of the persons concerned.

3. Member States shall in collaboration with the relevant EU Agencies ensure that the statistical data referred to in paragraph 2 for the previous year is transmitted annually to the Commission, by 1 July each year, according to all relevant provisions and accountable to the European Parliament.

Corresponding Recital

Recital 10

(10) The collection of accurate, *reliable*, coherent, *anonymised data disaggregated by at least sex, gender, racial and ethnic origin, age, socio-economic status, citizenship, statelessness and comparable across Member States, where possible under national law as well as* the timely publication of collected data and statistics are fundamental to ensure full knowledge on the scope of trafficking in human beings within the Union. Introducing a requirement for Member States *in cooperation with relevant EU Agencies (AM 105, EPP)* to collect and report to the Commission statistical data on trafficking in human beings every year in a harmonised way is expected to constitute a relevant step to enhance the general understanding of the phenomenon and to ensure the adoption of data-informed policies and strategies. Due to the importance of having up-to-date statistical data as soon as possible it is appropriate to determine the date of the application of the article on data collection at the earliest point in time, which is the entry into force of this Directive.

COMPROMISE 14- Article 19b (new) Directive 2011/36/EU and corresponding Recitals

Covering *AM 268(S&D), AM 291 (co-rapporteurs), Am 66 (Greens), Am 87 (Rapp)*

AM 207 part (Greens)

The following Article 9b is inserted

Article 19b

National Action Plans

1. Member States shall adopt and implement National Anti-Trafficking Action Plans in cooperation with national anti-trafficking coordinators,–national rapporteurs, relevant stakeholders including law enforcement authorities, judicial authorities and civil society organisations active in the field to prevent and combat trafficking in human beings-by... [Date-two years from the date of entry into force of this Directive]. Member States shall ensure that the National Action Plans are reviewed and updated at least every five years.

2. A National Action Plan shall include:

i. preventive measures, including analysis aimed at the identification of economic and social sectors where the risk of trafficking is present;

ii. the development of due diligence schemes to be applied by natural and legal persons operating in the economic and social sectors where risk of trafficking is identified;

iii. strategies for monitoring the correct application of the due diligence schemes developed for specific sectors where risk of trafficking is identified, including through inspections by and reporting to competent administrative authorities, and related follow-up measures;

v. appropriate mechanisms for coordination and cooperation at strategic and operational levels among all competent authorities, including with relevant EU agencies appropriate financial resources appropriate training and appropriate legal capabilities made available to competent authorities;

va. measures to enhance the exchange of information and intelligence on cross-border human trafficking.

vi. strategies for the development and implementation of measures to prevent re-trafficking of victims;

vii. procedures for regular monitoring and evaluation of the results achieved through the implementation of the National Anti-Trafficking Action Plans;

The National Anti-Trafficking Action Plans and the reports prepared as a result of their implementation shall be publicly available.

Corresponding Recitals

Recital 8a (new)

With a view to strengthening the national capability regarding detection, identification and referral, Member States should also develop National anti-trafficking Action Plans and review and update them at regular intervals#). The National Action Plans should contain comprehensive measures, including preventive, monitoring, data collection, coordination, due diligence, measures to prevent re-trafficking, and should be developed and updated regularly in consultation with civil society organisations

COMPROMISE 15 - Article 23 Directive 2011/36/EU

Covering : AMs 28 (co-rapporteurs), 294 (S&D)

Article 23 - paragraph 3 is amended as follows :

The Commission shall, [by **three** years after transposition deadline], submit a report to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures to comply with **this Directive, including** Article 18a and the impact of such measures.