

Tuesday 12 June 2001

European Parliament legislative resolution on the proposal for a Council Framework Decision on combating the sexual exploitation of children and child pornography (COM(2000) 854 – C5-0043/2001 – 2001/0025(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 854) ⁽¹⁾,
 - having been consulted by the Council pursuant to Articles 29, 31 and 34(2) of the EU Treaty (C5-0043/2001),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Culture, Youth, Education, the Media and Sport and the Committee on Women's Rights and Equal Opportunities (A5-0206/2001),
1. Approves the Commission proposal, subject to Parliament's amendments;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission.

⁽¹⁾ OJ C 62 E, 27.2.2001, p. 327.

5. Trafficking in human beings *

A5-0183/2001

Proposal for a Council framework decision on combating trafficking in human beings (COM(2000) 854 – C5-0042/2001 – 2001/0024(CNS))

The proposal was amended as follows:

TEXT PROPOSED BY THE COMMISSION ⁽¹⁾	AMENDMENTS BY PARLIAMENT
	Amendment 1
	<i>Title</i>
Proposal for a Council Framework Decision on combating trafficking in human beings	Proposal for a Council Framework Decision on combating trafficking in human beings for the purpose of sexual exploitation and labour exploitation
	Amendment 2
	<i>Recital -1 (new)</i>
	(-1) Article 5(3) of the Charter of Fundamental Rights of the Union, proclaimed on 7 December 2000 ⁽¹⁾, expressly prohibits trafficking in human beings.
	⁽¹⁾ OJ C 364, 18.12.2000, p. 1.

⁽¹⁾ OJ C 62 E, 27.2.2001, p. 324.

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Amendment 3

Recital 3

(3) Trafficking in human beings constitute serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, as well as the use of violence, threats, debt bondage and coercion;

(3) Trafficking in human beings constitute serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, **where poverty, lack of education and lack of professional opportunities are important causes of vulnerability**, as well as the use of violence, threats, debt bondage and coercion **and all other forms of abuse, irrespective of the individual's consent**;

Amendment 4

Recital 3a (new)

(3a) The European Parliament condemns trafficking in human beings in its resolutions of 14 April 1989 on the exploitation of prostitutes and the traffic in human beings⁽¹⁾, 16 September 1993 on trade in women⁽²⁾, 18 January 1996 on trafficking in human beings⁽³⁾ and in its resolution of 19 May 2000⁽⁴⁾ on the Commission's communication 'For further actions in the fight against trafficking in women' (COM(1998) 726).

⁽¹⁾ OJ C 120, 16.5.1989, p. 352.

⁽²⁾ OJ C 268, 4.10.1993, p. 141.

⁽³⁾ OJ C 32, 5.2.1996, p. 88.

⁽⁴⁾ OJ C 59, 23.2.2001, p. 307.

Amendment 5

Recital 3b (new)

(3b) The UN optional protocol on trafficking in human beings represents a decisive step towards international cooperation in this field.

Amendment 6

Recital 3c (new)

(3c) Due distinction must be made between trafficking in human beings, which by its very definition contains an element of coercion, exploitation and movements against the individual's will, and non-profit facilitation of unauthorised entry.

Amendment 7

Recital 3d (new)

(3d) Women and children are more vulnerable and are therefore at greater risk of falling victim to trafficking.

Amendment 8

Recital 7

(7) This Framework Decision should contribute to the fight against and prevention of trafficking in human beings **by complementing** the instruments adopted by the Council such as the 96/700/JHA Joint Action establishing an incentive and exchange programme for combating trade in human beings

(7) This Framework Decision should contribute to the fight against and prevention of trafficking in human beings **and is the necessary legal complement to** the instruments adopted by the Council such as the 96/700/JHA Joint Action establishing an incentive and exchange programme for combating trade in

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and sexual exploitation of children (STOP), the 96/748/JHA Joint Action extending the mandate given to the Europol Drugs Unit, the Decision of the Council and the European Parliament 293/2000/EC on the Daphne programme on preventive measures to fight violence against children, young persons and women, the Joint Action 98/428/JHA on the creation of a European Judicial Network, the Joint Action 96/277/JHA, concerning a framework for the exchange of liaison magistrates to improve judicial co-operation between the Member States of the European Union and the Joint Action 98/427/JHA on good practice in mutual legal assistance in criminal matters;

human beings and sexual exploitation of children (STOP), the 96/748/JHA Joint Action extending the mandate given to the Europol Drugs Unit, the Decision of the Council and the European Parliament 293/2000/EC on the Daphne programme on preventive measures to fight violence against children, young persons and women, the Joint Action 98/428/JHA on the creation of a European Judicial Network, the Joint Action 96/277/JHA, concerning a framework for the exchange of liaison magistrates to improve judicial co-operation between the Member States of the European Union and the Joint Action 98/427/JHA on good practice in mutual legal assistance in criminal matters;

Amendments 9 and 10

Article 1, introduction

Each Member State shall take the necessary measures to ensure that the recruitment, transportation or transfer of a person, including harbouring and subsequent reception and the exchange of control over him or her is **punishable**, where the fundamental rights of that person have been **and continue to be** suppressed for the purpose of exploiting him or her in the production of goods or provision of services **in infringement of labour standards governing working conditions, salaries and health and safety, and:**

Each Member State shall take the necessary measures to ensure that the recruitment, transportation or transfer of a person, including harbouring and subsequent reception and the exchange of control over him or her is **legally classed as a criminal offence**, where the fundamental rights of that person have been suppressed for the purpose of exploiting him or her in the production of goods or provision of services. **Exploitation includes as a minimum forced labour or forced servitude, slavery or practices akin to slavery, or bondage. In addition, one of the following conditions must be met:**

Amendment 11

Article 1, point (b)

(b) use of made of deceit or fraud or

(b) use is made of **inducement**, deceit or fraud, or

Amendment 12

Article 1, point (c)

(c) there is a misuse of authority, influence or pressure, or

(c) there is a misuse of authority or influence, **abuse of a situation of vulnerability**, pressure, or

Amendment 13

Article 1, point (d)

(d) there is another form of abuse.

(d) there is another form of abuse, **in particular the exploitation of extreme helplessness and the provision or acceptance of payments or benefits in order to secure the consent of a person who has power over another person.**

Amendment 14

Article 1, paragraph 1a (new)

Assistance given on humanitarian grounds to persons not in possession of the proper papers who are seeking entry and residence shall be explicitly excluded from the provisions of this Framework Decision.

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Amendment 15

Article 1a (new)

Article 1a**Definitions****For the purposes of this Framework Decision:**

- (a) **'Trafficking in human beings'** shall mean the recruitment, transportation, transfer, harbouring or receipt of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- (b) The consent of a victim of trafficking in human beings to the intended exploitation set out in point (a) of this Article shall be irrelevant where any of the means set out in point (a) have been used.
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in human beings', even if this does not involve any of the means set out in point (a) of this Article.
- (d) **'Child'** shall mean any person under eighteen years of age.

Amendment 16

Article 2, introduction

Each Member State shall take the necessary measures to ensure that the recruitment, transportation or transfer of a person, including harbouring and subsequent reception and the exchange of control over **him or her is punishable**, where the purpose is to exploit him or her **in** prostitution **or in** pornographic performances **or in** production of pornographic material, and:

Each Member State shall take the necessary measures to ensure that the recruitment, transportation or transfer of a person, including harbouring and subsequent reception and the exchange of control over **that person and the furthering or encouragement of any of those stages of trafficking in human beings to which that person falls victim are prosecuted as criminal acts**, where the purpose is to exploit him or her **for sexual purposes such as** prostitution, pornographic performances, **the** production of pornographic material **or marriages under false pretences** and:

Amendment 17

Article 2, point (b)

(b) use is made of deceit or fraud, or

(b) use is made of **inducement**, deceit or fraud, or

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TEXT PROPOSED
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BY PARLIAMENTAmendment 18
Article 2, point (c)

(c) there is a misuse of authority, influence or pressure, or

(c) there is a misuse of authority or influence, **abuse of a situation of vulnerability**, or **the use of** pressure, **such as debt bondage**, orAmendment 19
Article 2, point (d)

(d) there is another form of abuse.

(d) there is another form of abuse **of the vulnerability of persons, for example persons with a physical or mental disability or who are illegally resident**.Amendment 21
Article 3, paragraph 3 (new)**Complicity in such offences by civil servants, police officers and customs officials shall be regarded as making the offence all the more serious and shall therefore be punished in accordance with Article 4(2).**Amendment 25
Article 4, paragraph 2, indent 1— it involves particular **ruthlessness**, or— it involves particular **physical or psychological violence**, orAmendment 26
Article 4, paragraph 2, indent 2— **it generates substantial proceeds**, or**Deleted**Amendment 27
Article 4, paragraph 2, indent 3a (new)— **transportation and conveyancing take place in inhumane conditions**Amendment 24
Article 4, paragraph 2a (new)**2a. In addition to the terms of imprisonment referred to in paragraphs 1 and 2, each Member State shall take the necessary measures to punish the offences referred to in Articles 1, 2 and 3 through the seizure and confiscation of the proceeds derived from trafficking in order to compensate the victims as a matter of priority for the financial, physical and psychological damage which they have suffered.**Amendment 30
Article 6, point (ea) (new)(ea) **the seizure and confiscation of the proceeds derived from trafficking in order to compensate the victims as a matter of priority for the financial, physical and psychological damage which they have suffered.**

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENTAmendment 31
Article 7a, title (new)**Article 7a****Conduct of judicial proceedings**Amendment 32
Article 7a, paragraph 1 (new)

1. **Each Member State shall take the necessary measures to ensure that a victim of an offence provided for in this Framework Decision is given adequate legal protection and standing in judicial proceedings. For this purpose, the public shall be excluded, if necessary, from the court proceedings.**

Amendment 33
Article 7a, paragraph 2 (new)

2. **Adequate legal protection shall also be provided for individuals who testify as witnesses in criminal proceedings.**

Amendment 56
Article 7a, paragraph 3 (new)

3. **The Member State concerned shall ensure that its legal or administrative system contains the appropriate measures to guarantee the full co-operation of the victim during the investigation and judicial proceedings. Particular account shall be taken of the age, gender and special needs of the victim.**

Amendments 44 and 47
Article 8

Each Member State shall ensure that a victim of an offence provided for in this Framework Decision is given adequate legal protection and standing in judicial proceedings. In particular, Member States shall ensure that criminal investigations and judicial proceedings do not cause any additional damage for a victim.

The Member State concerned shall grant the victim all the appropriate assistance, including the possibility of issuing a temporary residence permit, in order to guarantee his cooperation with public authorities during the investigation and the judicial proceedings. In particular, Member States shall ensure that criminal investigations and judicial proceedings do not cause any additional damage for a victim. **In addition, Member States shall ensure that social, medical and psychological assistance is available during the investigation and the judicial proceedings. Each Member State shall work actively with non-governmental organisations involved in combating trafficking in human beings.**

Amendment 35
Article 8a (new)**Article 8a****Safeguard clause**

Nothing in this Framework Decision shall adversely affect the rights, obligations and responsibilities of States and individuals under international law, including international

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humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle set out therein that refugees may not be expelled or returned ('refouler').

Amendment 37

Article 9, paragraph 1

1. In accordance with the applicable conventions, multilateral or bilateral agreements or arrangements, Member States shall afford each other mutual assistance to the widest extent possible in respect of judicial proceedings relating to the offences provided for in this Framework Decision.

1. In accordance with the applicable conventions, multilateral or bilateral agreements or arrangements, Member States shall afford each other mutual assistance **and seek cooperation with third countries involved** to the widest extent possible in respect of judicial proceedings relating to the offences provided for in this Framework Decision.

Amendment 38

Article 9, paragraph 3

3. For the purpose of exchange of information relating to the offences referred to in Articles 1, 2, and 3, Member States shall establish operational points of contact or make use of existing co-operation mechanisms. In particular, Member States shall ensure that Europol, within the limits of **its mandate**, is fully involved.

3. For the purpose of exchange of information relating to the offences referred to in Articles 1, 2, and 3, Member States shall establish operational points of contact or make use of **adequately equipped** existing co-operation mechanisms. In particular, Member States shall ensure that Europol **and Interpol**, within the limits of **their mandates**, **cooperate closely and are fully involved in a complementary procedure**.

Amendment 39

Article 9, paragraph 3a (new)

3a. The Member States shall inform each other of the names and descriptions of missing persons and compile a databank accessible to all Member States. Non-governmental organisations shall be actively involved in the collection and input of data.

Amendment 41

Article 9, paragraph 4a (new)

4a. The Member States shall jointly devise strategies for cooperation on preventive measures to combat trafficking in human beings.

Amendment 57

Article 9, paragraph 4b (new)

4b. Every two years the Council shall submit a report to the European Parliament concerning action taken to combat trafficking in human beings in the European Union and in the candidate countries, including action taken on the basis of the implementation of this Framework Decision, taking into account the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

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Amendment 43

Article 9, paragraph 4c (new)

4c. The Member States shall devise common strategies for the improved training of officials responsible for criminal prosecution, immigration and the prevention of trafficking in human beings.

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(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 854) ⁽¹⁾,
 - having been consulted by the Council pursuant to Articles 29, 31 and 34(2) (b) of the EU Treaty (C5-0042/2001),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Women's Rights and Equal Opportunities (A5-0183/2001),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Calls for the conciliation procedure to be initiated should the Council intend to depart from the text approved by Parliament;
 5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

⁽¹⁾ OJ C 62 E, 27.2.2001, p. 324.

6. Information and communication technologies in developing countries

A5-0191/2001

European Parliament resolution on Information and Communication Technologies (ICT) and developing countries (2000/2327(INI))

The European Parliament,

- having regard to Rule 163 of its Rules of Procedure,
- having regard to the report of the Committee on Development and Cooperation (A5-0191/2001),