



Law

## Feedback from: ICMPD

### Feedback reference

F2670956

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### Submitted by

ICMPD Anti-Trafficking Programme

### User type

Other

### Organisation

ICMPD

### Organisation size

Large (250 or more)

### Country of origin

Austria

### Initiative

Fighting human trafficking – review of EU rules ([/info/law/better-regulation/have-your-say/initiatives/13106-Fighting-human-trafficking-review-of-EU-rules\\_en](/info/law/better-regulation/have-your-say/initiatives/13106-Fighting-human-trafficking-review-of-EU-rules_en))

The International Centre for Migration Policy Development (ICMPD) welcomes the opportunity to comment the roadmap recently published and outlining the process that may lead to the revision of the EU Directive 2011/36.

That being said, it is the view of ICMPD that the process of revision should make it clear, from the outset, that the material and procedural standards set in the directive, as well as the rights and entitlements that victims and potential victims currently benefit from, SHOULD UNDER NO CIRCUMSTANCE BE DECREASED OR ALTERED, unless it is to apply more favorable provisions to (potential) victims.

As far as the PROCESS is concerned:

While ICMPD considers that the specific objectives of the roadmap are clear and fit for purpose, we consider that any revision option should concentrate more on considering the possibility to expand the material scope of application of the directive (particularly in relation to victims' rights and entitlements) than on its procedural aspects.

ICMPD also believes that the process outlined in the roadmap should include extensive coordination work and exchanges with a range of stakeholders across various policy fields - not only anti-trafficking stakeholders - in order to ensure that EU internal and external actions are coordinated and consistent. We welcome the strong focus on the interlinkages with other policy areas and instruments provided for by the EU AT strategy, however, neither the Strategy nor the roadmap explain how such linkages and alignment of the anti-trafficking strategy's objectives and ambitions with other instruments will be ensured in practice. The evaluation is a good opportunity to explore this aspect as well.

As far as the OBJECTIVES (or material focus) of the roadmap are concerned, ICMPD considers that, while the prominence given to demand is clear and legitimate, it should not overshadow the (many) other important dimensions that the evaluation and impact assessment process is to tackle.

### Demand

There is a clear focus put in the roadmap on looking at the possibility to 'criminalize the use of exploited services from victims of trafficking' in the event the user/client was aware that the provider was a victim. This criminalization should apply to both natural and legal persons. The question of THB in the supply/value chain is however not clearly addressed under one of the objectives outlined in the roadmap (even if this may be captured under demand or prevention). Exploring whether the introduction of standards requiring the private sector (inter alia) to carry out thorough checks on their suppliers (and any actor part of the value chain) would be relevant in our view and may lead to the identification of appropriate and impactful legal provisions.

### Non-criminalization

MS continue to prosecute and punish victims for acts they were compelled to perform as a result of their being trafficked. The directive does not preclude MS from doing so and we believe this question should be reviewed thoroughly during the evaluation process.

#### Policy coherence

It is also ICMPD's opinion that the directive has primarily been conceived as a tool to tackle the scourge of THB and protect its victims within its borders. Any revision of the directive should also consider the possibility to reconcile in law the internal and external dimensions of the EU action to fight THB, the latter being supported primarily through policy and financing initiatives rather than by setting adequate standards of accountability for European economic actors for example. The importance of policy coherence must be highlighted, also in light of the important changes that have affected and are to affect the EU and domestic legal orders in the asylum and migration fields: the revision of the directive should be linked to a thorough assessment of existing EU norms and standards in the fields of legal migration, borders, visas, asylum and irregular migration, as well as all Schengen related legislation.

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