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From:	Presidency
To:	Delegations
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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims - Presidency note

Following the examination of the proposal in the COPEN Working Party on 17 February 2023, the Presidency would invite delegations to continue, at the COPEN meeting on 17 March 2023, the examination on the basis of the tentatively amended text annexed to this note. Modifications in relation to the original proposal are indicated in **bold** or ~~striketrough~~, with the latest modifications indicated also as underlined. The Presidency would like to encourage delegations to state their positions on all articles, reflecting in particular on the Presidency drafting suggestions as well as the questions and comments inserted in the boxes below.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2011/36/EU on preventing and combating trafficking in human beings
and protecting its victims

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(2) and 83(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

[Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,]

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (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 combatting trafficking in human beings remains a priority for the Union and the Member States.

¹ OJ C , , p. .

² OJ C , , p. .

- (2) Directive 2011/36/EU of the European Parliament and the Council³ 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 prevention and protection of victims, taking into account the gender perspective.
- (3) The EU Strategy on Combatting Trafficking in Human Beings 2021-2025⁴ 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, 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, and to the national systems aimed at the early identification of, assistance to and support for victims of trafficking.

³ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, [OJ L 101](#), 15.4.2011, p. 1–11.

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021–2025, [COM\(2021\) 171 final](#), 14.4.2021.

- (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 and illegal adoption 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. **Forced marriage and illegal adoption, as instruments to carry out other forms of exploitation, such as practices similar to slavery, already fall within the scope of trafficking in human beings. However, they should be included as forms of exploitation in their own right. Moreover, the inclusion of forced marriage and illegal adoption in the forms of exploitations explicitly listed in the Directive should complement national laws establishing forced marriage or illegal adoption as a self-standing criminal offence, since the offence of trafficking in human beings should apply to those cases when the forced marriage or illegal adoption is the purpose of the exploitation. This Directive is without prejudice to the definition of marriage and adoption in national or international law.**

- (5) An increasing number of offences concerning trafficking in human beings is committed or facilitated by means of information or communication technologies. Traffickers **frequently** use the internet and social media, inter alia to recruit,⁵ advertise or exploit victims, exercise control and organise transport. Internet and social media are also used to distribute exploitative materials. Information technology also hampers timely detection of the crime and identification of the victims and perpetrators. **The existing legal framework in Directive 2011/36/EU already includes, within the scope of the definition of trafficking in human beings, crimes committed with the use of information and communication technologies, for example in the recruitment and exploitation of victims, the organisation of their transport and accommodation, advertising victims online and reaching out to potential clients, controlling victims and communicating between perpetrators. In order to address this trend and effectively counter the organised crime groups that traffic people, law enforcement needs to improve their digital capabilities and expertise, to keep up with technological developments. It is therefore important to explicitly include the online dimension of the crime into the legal framework.**
- [(6) In order to enhance the criminal justice response to offences concerning trafficking in human beings committed for the benefit of legal persons and to deter the commission of those offences, it is necessary to strengthen the sanctions regime against legal persons with a proportionate mandatory approach. Therefore, the optional sanctions regime set out in Directive 2011/36/EU is replaced with a mandatory sanctions regime applicable when a legal person is held liable pursuant to Article 5(1) and (2).]

⁵ Suggestion from one Member State: “Traffickers use, **for example**, the internet and social media, **which are** inter alia **used** to recruit [...]”

[(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*]⁶. The use of frozen and confiscated instrumentalities and proceeds from the offences referred to in Directive 2011/36/EU to support victims' assistance and protection, including compensation of victims and Union trans-border law enforcement counter-trafficking activities, should be encouraged.]

⁶ COM (2022) 245.

- (8) In order to enhance the national capability to 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 **OPTION A: , in accordance with the constitutional organisation and requirements of Member States OR OPTION B: one or several** ⁷ **N**ational **R**eferral **M**echanisms in the Member States. Establishing formal national referral mechanisms and appointing national focal points for the **cross-border** referral of victims are essential measures to enhance cross-border cooperation. **A national referral mechanism should be a transparent, accessible and harmonised framework facilitating the early detection, identification, support and assistance of the victims of trafficking and their referral to the responsible national organisations and bodies. This framework should identify the participating competent authorities, civil society organisations and other stakeholders and set out their respective responsibilities including the procedures and the line of communication. These mechanisms can take the form of a set of established procedures, guidelines, framework protocols or cooperation arrangements. A referral mechanism should apply to all victims and for all forms of exploitation taking into account the individual vulnerability of the victims. [IF OPTION B is chosen: When the organisation of public administration allows for this, Member States are encouraged to have one single national mechanism in place.] The national focal point should serve as a single point of contact for the cross-border referral of victims. It may be based on existing mechanisms or governance structures and does not have to replace national complaint mechanisms or hotlines. While having a focal point at national level is necessary for the proper functioning of cross-border cooperation, this is without prejudice to the possibility for Member States to foresee that the national focal point will serve as a entry point, which will forward cases to other competent authorities for the appropriate follow-up.**

⁷ If option A here above is supported by delegations, there may be a need to delete the word “national”.

- (9) In order to further reinforce and harmonise the criminal justice efforts on demand reduction across Member States, it is important **to criminalise the use of services provided by victims** which are the objects of exploitation with the knowledge that the person **providing the services** is a victim of an offence concerning trafficking in human beings. Establishing this as a criminal offence is part of a comprehensive approach to demand reduction, which aims to tackle the high levels of demand that fosters all forms of exploitation. **The offence should target the use of services that are the objects of forms of exploitation covered by the offence of trafficking in human beings, to the extent that such exploitation results in the provision of services. The offence should not target the trafficker but should, for instance, apply to the owner of a business who knowingly uses a victim of trafficking made available by the trafficker for any type of labour, including both the production of goods and the provision of services. It should apply to end-users of services, such as cleaning services or nail salons, provided that they have knowledge of the fact that the provider of the services is a victim of trafficking. It should also apply to clients of prostitution, provided that they have knowledge of the fact that the person in prostitution is a victim of trafficking. However, the offence should not apply to customers purchasing products produced under exploitative labour conditions, as they are not the users of a service. The requirement of knowledge that the provider of the services is a victim of trafficking means that the user must be aware that the person is a victim of trafficking in human beings. As this Directive sets minimum rules, Member States are free to adopt or maintain more stringent criminal law rules in that area. Member States should be able, for example, to broaden the scope of the offence by providing that the use of services provided by a person victim of trafficking constitutes a criminal offense independently of its knowledge of the status of the victim or by including cases of negligence.**

- (10) The collection of accurate and coherent data and 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 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.
- (11) Since the objectives of this Directive, namely preventing and combating trafficking in human beings and protecting the victims of this crime, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effect of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (12) The Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the respect and protection of human dignity, the prohibition of slavery, forced labour and trafficking in human beings, the right to the integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment, the right to liberty and security, the protection of personal data, the freedom of expression and information, the freedom to choose an occupation and right to engage in work, the equality between women and men, the rights of the child, the rights of persons with disabilities, and the prohibition of child labour, the right to an effective remedy and to a fair trial, the principles of legality and proportionality of criminal offences and penalties. In particular, this Directive seeks to ensure full respect for these rights and principles, which are to be implemented accordingly.

- (13) In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application. [Or] In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of ...,] its wish to take part in the adoption and application of this Directive.
- (14) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (15) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁸, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (16) Directive 2011/36/EU should therefore be amended accordingly,

⁸ OJ C 369, 17.12.2011, p. 14.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2011/36/EU

Directive 2011/36/EU is amended as follows:

- (1) in Article 2, paragraph 3, “or forced marriage, or illegal adoption” is added at the end of the paragraph.

Member States are asked whether they can accept the Article, along with the explanations given in recital 4.

~~(2) — 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.”~~

While a number of Member States could accept the Article, another group of Member States expressed serious concerns. It was pointed out that an addition of this text:

- could lead to the mistaken conclusion that the current trafficking offence is not technology neutral,
- could raise doubts about the interpretation of other provisions of Union criminal law that have been assumed to be technology neutral but, like the current trafficking offence, do not contain an explicit reference to acts committed by means of information and communication technologies,

- would leave Member States that already have technology neutral trafficking offences in doubt about what the transposition of this Article would require, and
- would address the wrong problem; while Member States in general have transposed the provision on human trafficking in a technology neutral manner, it would seem that acts committed by means of information and communication technologies are not investigated and prosecuted to the necessary extent.

In light of these concerns, the Presidency suggests deleting the Article and making additions to recitals 5.

Member States are asked whether this would be an acceptable way forward.

[(2bis) in Article 5, paragraph 1, “Articles 2 and 3” is replaced by “Articles 2, 3 and 18a”.]

Provided there is support for the proposed new offences in Article 18a, the Presidency suggests adding a reference to that Article in the provision on liability for legal persons. Such liability ususally extends to all crimes in instruments of Union law. It would then be possible to provide for some or all provisions on sanctions on legal persons to apply to offences under Article 18a as well.

Member States are asked to state whether or not this addition is acceptable.

(3) Article 6 and 7 are replaced by the following:

I “Article 6
Sanctions on legal persons

- Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) is **punishable by effective, proportionate and dissuasive** ~~subject to~~ criminal or non-criminal **sanctions or measures**, ~~finer and, if appropriate, to the following sanctions:~~
 - ~~exclusion from entitlement to public benefits, aid or subsidies;~~
 - ~~temporary or permanent closure of establishments which have been used for committing the offence.~~

2. Member States shall take the necessary measures to ensure that sanctions or measures for a legal persons held liable pursuant to Article 5(1) or (2) for the offences referred to in Articles 2, 3 and 18a ~~an offence aggravated by any of the circumstances set forth in Article 4(2) is subject,~~ shall include criminal or non-criminal fines and may include other criminal or non-criminal sanctions or measures, such as: if appropriate, to the following sanctions:

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

(b) closure of establishments used for committing the offence

(ac) ~~temporary or permanent~~ disqualification from the practice of ~~business~~ commercial activities;

(bd) placing under judicial supervision;

(ee) judicial winding-up.

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

3. Member States shall take the necessary measures to ensure that, for legal persons held liable pursuant to Article 5(1) or (2), offences referred to in Article 2 are punishable by criminal or non-criminal fines, the amount of which shall be proportionate to the seriousness of the conduct and to the individual, financial and other circumstances of the legal person concerned. Member States shall take the necessary measures to ensure that the maximum level of the fines is not less than:

(a) [5%] of the total worldwide turnover of the legal person, either in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision;

or, alternatively

(b) an amount corresponding to EUR [40] million.

When providing for fines pursuant to Article 6(3) point (a), Member States may provide for rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding the one in which the offence was committed, or in the business year preceding the fining decision.]

As Member States very clearly rejected mandatory sanctions other than fines, the question arises if the proposal to amend Article 6 should simply be rejected or if other changes should be made to this provision.

The Presidency believes that it would be appropriate to make the current level of sanctions (i.e. effective, proportionate and dissuasive sanctions that include fines and may include other sanctions) apply also to offences under Article 18a, as this is the standard regime. That would not require an amendment to Article 6 but would follow from the amendment to Article 5 (suggested above), to which the current Article 6 refers. If this approach is followed, the Council would be addressing the issue of sanctions on legal persons without amending Article 6.

There is also the option to align Article 6 with the corresponding article in the General Approach on the Environmental Crimes Directive of December 2022. Member States could opt to adjust only paragraphs 1 and 2. This would entail changes of a mostly editorial nature. The addition of Article 18a would also be made visible. If Member States prefer a more far-reaching provision on sanctions on legal persons, they could also determine a minimum upper limit of fines in line with the Environmental Crimes General Approach (paragraph 3). Some Member States have supported this idea, while others questioned the relevance of rules on environmental crimes as a model for harmonising fines in this field. If the Environmental Crimes model is taken onboard, the Presidency strongly suggest embracing all aspects of paragraph 3, as the text is the outcome of a delicate compromise balancing various interest.

Text aligned with the Environmental Crimes General Approach has been inserted for reference.

Member States are invited to indicate their preferences.

[Article 7

Freezing and confiscation

Member States shall take the necessary measures to **enable the freezing and confiscation of instrumentalities and proceeds from the criminal offences referred to in Articles 2, 3 and 18a. Member States bound by Directive 2014/42/EU of the European Parliament and of the Council⁹ shall do so in accordance with that Directive.**~~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*]¹⁰; 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.~~

From a strictly legal point of view, a provision on freezing and confiscation is not necessary. The current EU rules on freezing and confiscation (Directive 2014/42/EU) apply to “criminal offences covered by” this Directive, as will the future Directive on asset recovery and confiscation (according to a Presidency redraft of the latter Directive that has already gathered strong support from Member States).

One possible conclusion from this would be to reject the proposal. It would then also make sense to delete the current Article 7, which besides being redundant (legally speaking) will also be incomplete if a new Article 18a is introduced (as it only refers to Articles 2 and 3 of the Directive). A recital could then explain the reason for the deletion (i.e. that obligations to freeze and confiscate are found elsewhere in the acquis).

⁹ **Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).**

¹⁰ ~~COM (2022) 245.~~

There is, however, an argument to keep a provision on freezing and confiscation in the Directive for the sake of clarity and completeness. If Member States agree with this argument, the Presidency suggests basing the language of such a provision on the December 2022 General Approach on the Environmental Crimes Directive. (It should be noted that the area of environmental crimes is different, as such offences are not included in the scope of Directive 2014/42/EU.) The original proposal for this Article would not, in the view of the Presidency, be a suitable option as the terminology deviates from that used in the rules on freezing and confiscation.

Member States are invited to indicate their preferences.

(4) in Article 11, paragraph 4 is replaced by the following:

“4. Member States shall take the necessary measures to establish by laws, regulations or administrative provisions, **[Option A] in accordance with their constitutional organisation and requirements to set up a national referral mechanism, OR [Option B] one or several** ~~national~~ referral mechanisms aimed at the early identification of, assistance to, and support for victims, in cooperation with relevant support organisations, and to appoint a national ~~one or several~~ focal point for the cross-border referral of victims.”

The Presidency considers that a single national referral mechanism would typically be preferable, in particular for reasons of transparency. However, it would also seem necessary to accommodate the needs of any Member State with a federal system of government where the federal level would not be competent for matters regarding victim support. The Presidency suggests two alternative solutions, Option A (new) and Option B (from the previous meeting document).

Following explanations by the Commission, the Presidency suggests clarifying in the Article that the focal points will deal with cross-border situations. As that is the task, it would also be reasonable to limit the focal points to one per Member State. Nothing would prevent a Member State from organising the national focal point as a mere “mailbox”, forwarding requests to e.g. the regional level.

See also suggested additions to recital 8 regarding the concepts of referral mechanisms and focal point.

Member States are asked to indicate their preferences.

(5) Article 18, paragraph 4 is deleted.

(6) the following Article 18a is inserted:

“Article 18a

*Offences concerning the **knowing** use of services ~~which are the object of exploitation~~
~~with knowledge that the person is~~ **provided by** 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 **ensure that** the use of services which are the objects of exploitation **within the meaning of** ~~as referred to in~~ Article 2, with the knowledge that the person **providing the services** is a victim of an offence referred to in Article 2, **constitutes a criminal offence**.
2. Member States shall take the necessary measures to ensure that an offence as established in accordance with paragraph 1 is punishable by effective, proportionate and dissuasive penalties and sanctions.”

The Presidency suggests a few amendments to the provision and some additions to recital 9. The latter are partly inspired by the Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings (CETS 197).

Member States are asked if the provision, with the clarifications made in the recital, can be accepted.

(7) the following Article 19a is inserted:

Data collection and statistics

1. Member States shall **ensure that a system is in place for the recording, production and provision of anonymised** ~~collect~~-statistical data 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, as a minimum at least,~~ **include data available at the central level on the following:**
 - (a) the number of registered victims of offences referred to in Article 2, disaggregated~~],~~ **to the extent possible,**~~]~~ by registering organisation, sex, age groups (child/adult), citizenship, and form of exploitation;
 - (b) the number of suspects of offences referred to in Article 2, disaggregated~~],~~ **to the extent possible,**~~]~~ by sex, age groups (child/adult), citizenship, and form of exploitation;
 - (c) the number of persons prosecuted for offences referred to in Article 2, disaggregated~~],~~ **to the extent possible,**~~]~~ by sex, age groups (child/adult), citizenship, form of exploitation, nature of the final decision to prosecute;
 - (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, disaggregated~~],~~ **to the extent possible,**~~]~~ by sex, age groups (child/adult), citizenship;
 - (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, disaggregated~~],~~ **to the extent possible,**~~]~~ by sex and age groups (child/adult).

3. Member States shall transmit annually to the Commission, by 1 July each year, the statistical data referred to in paragraph 2 for the previous year.

The Presidency suggests an additional amendment to the chapeau of paragraph 2, in response to further requests for flexibility and with the hope that this will enable Member States to accept the Article in its current form.

- (8) In Article 23, the following paragraph 3 is inserted:

- “3. The Commission shall, [*by five 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 in order to comply with Article 18a and the impact of such measures.”

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [one year] after the entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions.

The transposition period will be discussed at a later stage.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
3. Point (7) of Article 1, which inserts Article 19a into Directive 2011/36/EU shall start to apply on the day referred to in Article 3.

This provision means that obligations regarding data collection and statistics will apply immediately upon the entry into force of the Directive. Whether this is feasible might depend on the drafting of Article 19a and will be discussed after the finalisation of that Article.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President