

From:
Sent:
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[REDACTED]
12 February 2021 16:04

Cc: FRA - References
Subject: February European Parliament Plenary: THB, asylum and social media freedom

Dear colleagues,

Please see enclosed summaries of relevant debates at the EP plenary this week. For details, please see [here](#) the notes prepared by [REDACTED] and [REDACTED]

1. Implementation of the [Anti-Trafficking Directive 2011/36](#)

ADOPTED: [European Parliament resolution of 10 February 2021 on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)

References to FRA:

- having regard to the 2018 Joint Statement of commitment to working together against trafficking in human beings signed by JHA Agencies including FRA;
- having regard to the report of the European Union Agency for Fundamental Rights of the EU entitled 'Severe labour exploitation: workers moving within or into the European Union' of 29 May 2015
- whereas severe labour exploitation occurs in many economic sectors in the EU and affects various groups of cross-border workers, including both EU and non-EU citizens; whereas, as recommended by the FRA, such practices should be addressed, among other ways, through a comprehensive system of targeted inspections of working conditions;
- Welcomes the conclusion by JHA agencies of the Joint Statement of Commitment to working together against trafficking in human beings; calls, in this regard, for the Member States to increase cross-border cooperation and knowledge sharing with the relevant EU agencies such as Eurojust, Europol, the FRA, Frontex, CEPOL, the EIGE and the EASO in the fight against THB;

LIBE Rapporteur [REDACTED] (ES, S&D) referred to human trafficking as criminal phenomenon with an enormous scale of profits, violating fundamental rights enshrined in the Charter. He stressed that this problem has a transnational character, which requires a common response at EU level. With concern, he highlighted that this kind of criminality has increased online. Further, he pointed to the importance of incorporating an age and gender based approach in combatting exploitation in agriculture, sex trafficking and domestic services. The Rapporteur also mentioned the issue of impunity, focusing on the need for more efficient cross border cooperation between judges, legal officers and police forces. He informed that article 18 of the directive urges MS to consider establishing the use of services related to exploitation as a criminal offence. He focused specifically in the sexual exploitation of women. Mr Lopez Aguilar's main recommendations were: explicit criminalisation of use of sex and labour services, approaching this issue from the criminal law standpoint; support to victims (resident permit, housing, psychological support); availability of funds for the MS and civil society to help tackle this issue and, more generally, a comprehensive uniform European approach.

FEMM Rapporteur [REDACTED] (ES, Renew) called on the COM, MS and civil society to fight trafficking in human beings. She reminded that half of the victims are citizens of the EU and pointed to vulnerability and poverty as common elements of victims. In contrast, she pointed to impunity of perpetrators. The Rapporteur underlined the importance of criminalising the users of the services related to trafficking and "of following the money". She underlined the need to invest in training of police officers and NGOs that provide assistance and

support, as well as assisting victims with free legal representation, psychologic support and housing. Finally, the Rapporteur referred to the impact of COVID, increasing vulnerability.

Commissioner for Home Affairs [REDACTED] called on the MS to fully implement this directive; stressed the importance of helping MS by boosting capacity of police officers and legal staff, and suggested the creation of a knowledge hub to share best practices and information. Further, the Commissioner pointed to the importance of boosting cross border law enforcement cooperation, updating Prüm, interoperability of data, as well as the proposal to boost Europol mandate and to harness technologies against trafficking, improve digital capacities of law enforcement. In addition, she referred to the importance of awareness raising of the rights of victims. In conclusion, the Commissioner defined anti-trafficking as a European issue and as a gendered crime: ¾ perpetrators are men and ¼ victims are women, pointing also to the issue of children (especially unaccompanied minors). To finalise, **Commissioner Johansson** defined trafficking as modern form of slavery, calling on the EU and its MS to take further coordinated action to fight it. The Commissioner identified the priorities of this fight as “following the money”, ending culture of impunity, supporting victims and strengthening cross border police cooperation.

In general terms, **the MEPs** expressed strong concern for the vulnerability of victims and the impunity of perpetrators. Several MEPs called on the MS to criminalise the users of exploitation related services and referred to the gender dimension of this crime, as well as to the role of the Internet in spreading trafficking.

2. Implementation of Article 43 of the [Asylum Procedures Directive](#)

ADOPTED: [European Parliament resolution of 10 February 2021 on the implementation of Article 43 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection](#)

References to FRA:

- having regard to the Fundamental Rights Report 2020 of the European Union Agency for Fundamental Rights (FRA),
- having regard to FRA Opinion 3/2019 of 4 March 2019 entitled ‘Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the ‘hotspots’ set up in Greece and Italy’,
- having regard to the FRA report of 8 December 2020 entitled ‘Migration: Fundamental Rights Challenges at Land Borders’,
- Highlights the recent findings by the FRA, in particular that the number of alleged incidents of fundamental rights violations reported at external borders have increased significantly in recent years; notes that this includes many cases of persons being refused entry without their asylum claims being registered, including in the context of border procedures; reiterates that Member States are obliged to prevent unauthorised border crossings, and recalls that this obligation is without prejudice to the rights of persons requesting international protection; concurs with the FRA that the regularity and seriousness of these alleged incidents constitute a serious fundamental rights concern; reiterates that automatic refusal of entry, refoulement and collective expulsions are prohibited under EU and international law; highlights furthermore that, under Article 8 of the APD, Member States have a duty to inform persons on the possibility to apply for asylum if there are indications of protection needs, and that persons subject to a refusal of entry must be ensured access to an effective remedy in accordance with EU law and the ECHR; deplores all cases where Member States fail to respect their obligations in this regard, and calls on them to fully comply with those obligations; calls on the Commission to effectively ensure Member States’ compliance with these obligations, including by suspending EU payments in cases of serious deficiencies;
- Considers it important to establish an independent monitoring mechanism, and calls on the Member States to grant monitoring bodies unimpeded access to border facilities to ensure the effective protection of fundamental rights and the systematic reporting of violations, in line with the FRA’s recommendations in its report on Fundamental Rights Issues at Land Borders; believes that independent monitoring should also verify the quality of the decision-making process and its outcome, as well as detention conditions and compliance with procedural safeguards; considers that independent and competent national human rights institutions and NGOs, EU agencies such as the FRA, as well as international organisations such as UNHCR should be part of the monitoring bodies;
- Shares the concerns expressed by the FRA, the UN High Commissioner for Refugees and the UN Special Rapporteur on the human rights of migrants about respect for procedural guarantees and fundamental

rights in fast-track border procedures that have been used on the Greek hotspots; regrets the serious fundamental rights gaps existing in those European hotspots identified by the FRA;

██████████ (DE, Greens/EFA) presented the [report](#) on the implementation of Article 43 of Directive 2013/32/EU of the **Asylum Procedures Directive**. He expressed EP's commitment to examine the current implementation of the Directive and to suggest improvements based on evidence. He expressed his concern over the findings of the Agency for Fundamental Rights (FRA) that show that there is an increase in the number of violations of fundamental rights at the borders. He called for independent monitoring at the borders and for granting access to NGOs and IOs. He also called on Member States to come up with alternatives to detention and emphasised that children should not be put into detention. Sufficient support, human resources and legal assistance need to be provided to applicants.

Commissioner ██████████ highlighted that the COM's [New pact on Migration and Asylum](#) addresses many challenges identified in EP's report. This includes access to due process, independent monitoring mechanisms put in place by MS and specific attention to vulnerable groups. It also strengthens the efficiency of border procedures. The Pact provides for a proper examination of applicants and upholds both the right to apply for asylum and the principle of non-refoulement. The proposal for an amended [Asylum Procedures Regulation](#) proposes flexible and efficient border procedures. She proposed to work together with the EP to reach an agreement on a more efficient migration and asylum system.

3. Democratic scrutiny of social media and the protection of fundamental rights

Representing the **Council Presidency, State Secretary for European Affairs**, ██████████ acknowledged that social media can enhance freedom of expression, which must, however, be balanced against the goal of combating hate speech and disinformation. She stated that lawmakers - not social media companies - should decide on the legality and removal of online content. To this end, **the Council** already started discussions on the recently proposed [Digital Services Act \(DSA\)](#) and [Digital Markets Act \(DMA\)](#), as well as on the [Democracy Action Plan \(DAP\)](#), which, according to Zacarias, "will make social media companies more transparent and accountable". Zacarias also announced that the **PT PRES** will host a digital assembly in June on digital democracy and digital rights. The **PT PRES** will also hold a high-level conference on journalism and AI, with a special focus on the "robotisation of news production".

Commissioner for Values and Transparency, ██████████ declared that it is "high-time to reign in the unchecked power of digital corporations". She expressed hope that the proposed DSA would be swiftly adopted, as it would clarify the rules on online content moderation and establish stronger monitoring and enforcement mechanisms. She further suggested that the DAP could serve as a roadmap in the fight against disinformation until the DSA becomes law. ██████████ also announced that **COM** will propose [new regulation on online political advertisement](#). However, **the Commissioner** was clear that regulation should not address all details of digital life, reiterating the principle 'what is illegal offline, must also be illegal online'. She further stated that "solutions beyond regulation" had been discussed with Mark Zuckerberg and other tech executives. She pointed to the importance of following ethical codes when developing digital infrastructure, but admitted that this is something she "rarely hears from tech executives". During her intervention, **the Commissioner** repeatedly stressed the importance of freedom of expression and the need to protect it.

All political groups agreed on the need to regulate social media and welcomed the proposed DSA and DMA. There was also consensus that it should be for democratic institutions to decide what content qualifies as illegal. **MEPs** also stressed the importance of freedom of expression. Many **MEPs** also pointed to the importance of education and digital literacy in fighting hate speech and disinformation.

All the best,

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