

Transposition of the new Directive (EU) 2024/1712 on human trafficking

RECOMMENDATION 1

Provide magistrates and actors on the ground with clear and concrete guidelines for a balanced transposition, in view of the Belgian context, of the new European directive on human trafficking. This particularly concerns the definition of trafficking, criminalisation of the knowing use of services provided by a victim and the application of the non-punishment principle.



Despite some criticism from Myria regarding the content of the new Directive 2024/1712 on human trafficking, which significantly amends the previous Directive 2011/36/EU, Belgium is required to transpose it by 15 July 2026 at the latest. The measures adopted include **the extension of the definition of human trafficking** to include the exploitation of forced marriage, illegal adoption and surrogacy.

As part of the reform of the Criminal Code, the extension of the definition of trafficking to illegal adoption and forced marriage, which are also already criminalised as autonomous crimes, has already been provided for. Belgium will still have to add the exploitation of surrogacy.

It will be essential to provide concrete guidelines to practitioners in the field on the distinction with regard to autonomous offences, otherwise trafficking will become a catch-all concept. Similarly, it will also be important to determine which victims should be referred and provided with support, particularly in the case of exploitation through illegal adoption.

Another measure provided for by the directive concerns the mandatory **criminalisation of the knowing use of services provided by a victim of trafficking**, which concerns all forms of trafficking. Previously, such criminalisation was optional. Belgium had not therefore made provision for this in its legislation. Myria wonders in particular how Belgium will transpose and implement this new obligation regarding sexual exploitation. How can it be reconciled with its recent reform of sexual criminal law, which decriminalises certain forms of pimping and allows sex work in an employment relationship under certain conditions? Myria believes that, depending on their availability, existing resources should be prioritised for the fight against exploiters. In this context, strengthening controls and resources to detect potential abuses is essential. Similarly, raising awareness of human trafficking among clients and encouraging them to report possible abuses is also necessary.

Finally, **the principle of non-prosecution and non-punishment of victims**, which previously only applied to criminal activities, has now been extended to all illegal activities carried out under coercion. This makes it possible to explicitly target a series of administrative offences related, for instance, to prostitution or undeclared work, or other acts that are not criminal in nature but are subject to administrative or financial penalties. On this aspect too, providing clear guidelines to magistrates and players in the field will be essential, especially since the non-punishment principle will be the subject of an autonomous provision in the new Criminal Code.