

**Committee on legislation
of the National Assembly**

Chair:

UNIFIED PROPOSAL

FOR THE FINAL VOTE ON

**Legislative proposal No. T/9280
amending certain Acts with a view to combating the exploitation of victims of trafficking
in human beings**

**Submitted by:
Minister of Justice**

Budapest, 5 March 2020

Act ... of 2020

amending certain Acts with a view to combating the exploitation of victims of trafficking in human beings

1. Amendment to Act XXXI of 1997 on the protection of children and guardianship administration

Section 1

In section 53 (2) b) of Act XXXI of 1997 on the protection of children and guardianship administration (hereinafter the "Gyvt."), the following point bd) shall be added:

(Within the framework of care providing a home, special care shall be provided for)

"bd) children violating the prohibition of offering to perform sexual services as laid down in the Act on the rules on taking action against organised crime and certain related phenomena, and amending certain related Acts (hereinafter "presumed child victim of trafficking in human beings")"

Section 2

Section 58 (1) of the Gyvt. shall be replaced by the following provision:

"(1) A special children's home, special group home, a special group of a children's home or a children's home shall offer care, socialisation, resocialisation, habilitation and rehabilitation to children showing severe psychological or dissocial symptoms, children using psychoactive substances, presumed child victims of trafficking in human beings and children with dual needs. Based on a general protection measure by the police and even in the absence of an opinion by the capital or county child protection expert committee, the special children's home shall also receive, for up to 60 days, children

- a) placed temporarily, and
 - b) already taken into care with a temporary place of care, or place of care,
- for the safety of, and for providing immediate therapy to, these children."

Section 3

In Chapter X of the Gyvt., the following subtitle shall be added:

"General protection measure

Section 76/B

With a view to the protection of a presumed child victim of trafficking in human beings, the police shall

- a) place temporarily a child being brought up in his own family in a special children's home designated for the temporary reception of presumed child victims of trafficking in human beings, or
- b) transport a child placed, or taken into care, temporarily to a special children's home designated for the temporary reception of presumed child victims of trafficking in human beings,

and shall notify the guardianship authority of its immediately enforceable decision.

Section 4

In section 80/B (1) of the Gyvt., the following point e) shall be added:

(The guardianship authority shall change a child's place of care *ex officio* or upon request if)

“e) it has been notified by the police of a general protection measure under section 76/B b),”
(and for this reason, care cannot, or cannot appropriately, be provided for the child in the form in which it was provided until then.)

Section 5

(1) In section 101 (2) of the Gyvt. the following point l) shall be added:

[The minister, exercising his authority under paragraph (1) to direct a sector of state administration]

“l) shall designate the special children's homes receiving presumed child victims of trafficking in human beings.”

(2) Section 101 (3) of the Gyvt. shall be replaced by the following provision:

“(3) The minister shall ensure the conditions for

a) providing care for children showing severe psychological or dissocial symptoms or battling with psychoactive substances and for presumed child victims of trafficking in human beings, or

b) providing care for children with acquired immunodeficiency syndrome not requiring acute medical treatment, but in need of individual care

who are placed temporarily or taken into care, provided that they cannot be cared for at another location, or they need to be placed separately, based on an opinion by the national child protection expert committee or a general protection measure. For this purpose, he shall provide for the maintenance of special children's homes through the central organ of the organ designated in a decree by the Government.”

(3) In section 101 of the Gyvt., the following paragraph (3a) shall be added:

“(3a) Based on a general protection measure by the police and even in the absence of an opinion by the national child protection expert committee, a special children's home under paragraph (3) designated by the minister to receive presumed child victims of trafficking in human beings shall receive, for up to 60 days, children

a) placed temporarily, or

b) already taken into care with a temporary place of care, or place of care,
for the safety of, and for providing immediate therapy to, these children.”

2. Amendment to Act 1999 of LXXV on the rules on taking action against organised crime and certain related phenomena, and amending certain related Acts

Section 6

In section 9 of Act LXXV of 1999 on the rules on taking action against organised crime and certain related phenomena, and amending certain related Acts, the following paragraph (1a) shall be added:

“(1a) A person who has not attained the age of eighteen years shall not offer to perform sexual services.”

3. Amendment to Act II of 2012 on infractions, infraction procedure and the infraction records system

Section 7

In section 29 (2) of Act II of 2012 on infractions, infraction procedure and the infraction records system (hereinafter the “Szabs. tv.”), the following point g) shall be added:

(For the purpose of this Act:)

“g) offering to perform sexual services means offering to perform sexual services as defined in the Act on the rules on taking action against organised crime and certain related phenomena, and amending certain related Acts.”

Section 8

Section 172 of the Szabs. tv. shall be replaced by the following provision:

“Section 172

(1) A person who violates a restriction or prohibition concerning sexual services laid down by an Act or a local government decree adopted under authorisation granted by an Act commits an infraction.

(2) A perpetrator of violating the prohibition to offer sexual services who has not attained the age of eighteen years when committing the act shall not be liable to punishment.

(3) No infraction procedure shall be launched against a person violating the prohibition to offer sexual services if it is established on the spot beyond doubt that this person has not attained the age of eighteen years.

(4) A person violating the prohibition to offer sexual services who is not liable to punishment under paragraph (2) shall be heard as a witness in the course of preliminary proceedings if doing so is necessary for clarifying the facts of the case.

(5) If it is established, on the basis of paragraphs (3) or (4), that a person violating the prohibition to offer sexual services has not attained the age of eighteen years, the police shall adopt an immediately enforceable general protection measure under the Act on the protection of children and guardianship administration for the protection of the person violating the prohibition to offer sexual services; shall notify the guardianship authority of this decision; and shall provide for the placement and transport of that person.”

4. Amendment to Act C of 2012 on the Criminal Code

Section 9

The subtitle “Trafficking in human beings” of Act C of 2012 on the Criminal Code (hereinafter the “Btk.”) shall be replaced by the following provision:

“Trafficking in human beings and forced labour

Section 192

- (1) A person who
 - a) sells, buys, exchanges or hands over or receives another person as consideration, or
 - b) transports, accommodates, harbours or, for another, acquires another person for the purpose of committing an act specified in point a)is guilty of a felony and shall be punished by imprisonment for one to five years.
- (2) A person who, in order to realise regular gains,
 - a) induces another, by deception or by abusing his power or influence related to the education, supervision, care, or medical treatment of the aggrieved party, or any other power or influence over the aggrieved party, or by exploiting the vulnerable situation of the aggrieved party, or
 - b) coerces another, by violence or threat,to perform work, a work-like activity, other service or an unlawful act is guilty of a felony and shall be punished by imprisonment for two to eight years.
- (3) A person who, for the purpose of committing an act specified in paragraph (2), recruits, hands over, receives, sells, buys, exchanges, or hands over or receives as consideration, or, for another, acquires, or transports, accommodates or harbours another is guilty of a felony and shall be punished by imprisonment for two to eight years.
- (4) A person who commits the criminal offence specified in paragraph (2) or (3) for the purpose of engaging in a sexual act, or of the illegal use of a human body, is guilty of a felony and shall be punished by imprisonment for five to ten years.
- (5) The punishment shall be imprisonment for five to ten years if a criminal offence specified in paragraph (2) or (3), or for five to fifteen years if a criminal offence specified in paragraph (4), is committed
 - a) against a person who has not attained the age of eighteen years,
 - b) by tormenting the aggrieved party,
 - c) by a public officer using that capacity, or
 - d) against multiple persons.
- (6) The punishment shall be imprisonment for five to fifteen years if a criminal offence specified in paragraph (2) or (3), or for five to twenty years or life if a criminal offence specified in paragraph (4), is committed
 - a) against a person who has not attained the age of twelve years, or
 - b) causing danger to life or a particularly serious disadvantage.
- (7) A person who commits preparation for trafficking in human beings and forced labour shall be punished by imprisonment for up to one year for committing a misdemeanour in the case specified in paragraph (1), or for up to three years for committing a felony in the case specified in paragraph (2) or (3) or for one to five years in the case specified in paragraph (4).
- (8) A person who
 - a) uses, or makes uses of, the work, work-like activity, other service or unlawful act of the aggrieved party of trafficking in human beings and forced labour as specified in paragraph (2)shall be punished by imprisonment for up to three years,

b) commits the criminal offence specified in point a) by using a sexual act, or for the purpose of the illegal use of a human body, shall be punished by imprisonment for one to five years.”

Section 10

(1) In section 200 of the Btk., the following paragraph (3a) shall be added:

“(3a) If a criminal offence specified in paragraphs (1) to (3) is committed as a special recidivist, the punishment shall be imprisonment for

- a) one to five years, in the case specified in paragraph (1),
- b) two to eight years, in the case specified in paragraph (2),
- c) five to ten years, in the case specified in paragraph (3).”

(2) Section 200 (5) of the Btk. shall be replaced by the following provision:

“(5) The punishment shall be imprisonment for five to ten years if

- a) procuring as specified in paragraph (4) a) or b) also qualifies under point c),
- b) procuring as specified in a point of paragraph (4) is committed as a special recidivist.”

Section 11

(1) Section 201 (2) of the Btk. shall be replaced by the following provision:

“(2) A person who commits the criminal offence specified in paragraph (1) concerning the prostitution of a person who has not attained the age of eighteen years, or provides assistance to the prostitution of a person who has not attained the age of eighteen years, shall be punished by imprisonment for two to eight years.”

(2) In section 201 of the Btk., the following paragraph (4) shall be added:

“(4) If facilitating prostitution is committed as a special recidivist, the punishment shall be imprisonment

- a) for one to five years, in the case specified in paragraph (1),
- b) for five to ten years, in the case specified in paragraph (2),
- c) for two to eight years, in the case specified in paragraph (3).

(3) Section 203 (2) of the Btk. shall be replaced by the following provision:

“(2) A person who provides consideration for a sexual act with a person who has not attained the age of eighteen years is guilty of a felony and shall be punished by imprisonment for two to eight years.”

(4) In section 203 of the Btk., the following paragraph (5) shall be added:

“(5) The punishment shall be imprisonment for five to ten years if exploitation of child prostitution is committed as a special recidivist.”

Section 12

In Chapter XIX of the Btk., the following subtitle shall be added:

“Interpretative provision

Section 207/A

For the purposes of sections 200 (3a), 200 (5) b), 201 (4) and 203 (5) and concerning special recidivism, trafficking in human beings and forced labour, procuring, facilitating prostitution and exploitation of child prostitution shall be considered similar criminal offences.”

Section 13

In the Btk.,

a) in section 28 (1a), section 44 (1) j), section 74/A (2) c), section 459 (1) 26 d), the words “trafficking in human beings” shall be replaced by “trafficking in human beings and forced labour”,

b) in section 37 (3) a) ad), the words “trafficking in human beings” shall be replaced by “trafficking in human beings and forced labour”, and the words “section 192 (2) to (6)” shall be replaced by “section 192 (1) to (6)”,

c) in section 143 (1) d), the words “commits trafficking in human beings or has forced labour done by others” shall be replaced by “commits trafficking in human beings and forced labour”,

d) in section 200 (2), the words “and shall be punished under paragraph (1)” shall be replaced by “and shall be punished by imprisonment for one to five years”,

e) in section 200 (3) and section 203 (3), the words “for one to five years” shall be replaced by “for two to eight years”,

f) in section 203 (1), the words “for up to three years” shall be replaced by “for two to eight years”,

g) in section 282 (3) b), the words “trafficking in human beings” shall be replaced by “trafficking in human beings and forced labour”.

Section 14

The following shall be repealed in the Btk.:

a) in section 74/A (2) c) and section 459 (1) 26 d), the wording “forced labour (section 193),”,

b) the subtitle “Forced labour”,

c) section 201 (1) c),

d) section 356 (2) b).

5. Final provisions

Section 15

This Act shall enter into force on 1 July 2020.

Section 16

This Act serves the purpose of compliance with 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.