

Law n. 228 dated August 11, 2003
Measures against trafficking in persons

The Chamber of Deputies and Senate approved.

THE PRESIDENT OF THE REPUBLIC

HEREBY PROMULGATES

The following Act:

Art. 1.

(Amendment of Article 600 of the Penal Code)

1. Article 600 of the Penal Code is replaced by the following:

“Art. 600. – *(Placing or holding a persons in conditions of slavery or servitude)*. – Whoever exerts on any other person powers and rights corresponding to ownership; places or holds any other person in conditions of continuing enslavement, sexually exploiting such person, imposing coerced labour or forcing said person into begging, or exploiting him/her in any other way, shall be punished with imprisonment from eight to twenty years.

Placement or maintenance in a position of slavery occur when use is made of violence, threat, deceit, or abuse of power; or when anyone takes advantage of a situation of physical or mental inferiority and poverty; or when money is promised, payments are made or other kinds of benefits are promised to those who are responsible for the person in question.

The aforesaid penalty becomes harsher, increasing by one third to 50%, if the offences referred to in the first paragraph above are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes”.

Art. 2

(Amendment of Article 601 of the Penal Code)

1. Article 601 of the Penal Code is replaced by the following:

“Art. 601. – *(Trafficking in human beings)*. – Whoever carries out trafficking in persons who are in the conditions referred to in article 600, that is, with a view to perpetrating the crimes referred to in the first paragraph of said article; or whoever leads any of the aforesaid persons through deceit or obliges such person by making use of violence, threats, or abuse of power; by taking advantage of a situation of physical or mental inferiority, and poverty; or by promising money or making payments or granting other kinds of benefits to those who are responsible for the person in question, to enter the national territory, stay, leave it or migrate to said territory, shall be punished with imprisonment from eight to twenty years.

The aforesaid penalty becomes harsher, increasing by one third to 50%, if the offences referred to in this present article are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes”.

Art. 3

(Amendment of Article 602 of the Penal Code)

1. Article 602 of the Penal Code is replaced by the following:

“Art. 602. – *(Sale and purchase of slaves)*. – Whoever, in cases other than the ones referred to in article 601, purchases or sales or transfers any person who is in any of the conditions referred to in article 600, shall be punished with imprisonment from eight to twenty years.

The aforesaid penalty becomes harsher, increasing by one third to 50%, if the offences referred to in this present article are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes”.

Art. 4

(Amendment of Article 416 of the Penal Code)

1. The following paragraph is to be inserted after the fifth paragraph of Article 416 of the Penal Code:

“If the above-mentioned association aims at perpetrating one of the crimes referred to in Articles 600, 601, and 602, imprisonment from five to fifteen years shall be provided for in all cases referred to in the first paragraph, and from four to nine years in all cases referred to in the second paragraph”.

Art. 5

(Fines applicable to legal persons, corporations and associations for offences against individual personality)

1. The following paragraph is to be inserted after Article 25-*quater* of the government decree n. 231 issued under parliamentary delegation on June 8, 2003:

"Art. 25-*quinquies*. – (*Offences against individual personality*). – 1. With reference to the perpetration of the offences referred to in Section I of Heading III of Title XII of Book II of the Penal Code, the following fines shall apply to corporations:

- a) For the offences referred to in Articles 600, 601 and 602, a pecuniary penalty amounting to one thousand shares;
- b) For the offences referred to in articles 600-*bis*, first paragraph, 600-*ter* first and second paragraph, and 600-*quinquies*, a pecuniary penalty ranging from three hundred to eight hundred shares;
- c) For the offences referred to in articles 600-*bis*, second paragraph, 600-*ter*, third and fourth paragraphs, and 600-*quater*, a pecuniary penalty ranging from two hundred to seven hundred shares.

2. In the event of conviction for any of the offences referred to in paragraph 1, letters a) and b) above, the disqualifying sanctions referred to in article 9, paragraph 2 shall apply, for at least one year.

3. Should the corporation or one of its organisational units be exclusively or mainly run with a view to allowing or facilitating the perpetration of the crimes referred to in paragraph 1, irrevocable disqualification from practicing the activity in question shall apply, under Article 16, paragraph 3".

Art. 6

(Amendments to the Code of Criminal Procedure)

1. The Code of Criminal Procedure is amended as follows:

- a) The words "600, 601 and 602" of article 5, paragraph 1, letter b) are deleted;
- b) The words "416, sixth paragraph, 600, 601, 602" are added before the words "referred to in articles" of Article 51, paragraph 3-*bis*.
- c) Number "602" is added after the words "by articles", and number "602," is added after number "601" of article 407, paragraph 2, letter a), number 7-*bis*).

Art. 7

(Scope of application of Law n. 575 dated May 31, 1965, Law n. 55 dated March 19, 1990 and decree-law n. 306 dated June 8, 1992).

- 1. Numbers "600, 601, 602," are added after the words "513-*bis*, 575" in Article 7, first paragraph of Law n. 575 dated May 31, 1965 and subsequent modifications.
- 2. Numbers "600, 601, 602," are added after the words "referred to in articles" in Article 14, paragraph 1, of Law n. 55 dated March 19, 1990 and subsequent modifications.
- 3. The words "416-*bis*" of Article 12-*sexies*, paragraph 1, of the decree-law n. 306 dated June 8, 1992, converted and amended by Law n. 356 dated August 7, 1992 and subsequent modifications, are replaced by the words "416, sixth paragraph, 416-*bis*, 600, 601, 602".

Art. 8

(Amendments to Article 10 of the decree-law n. 419 dated December 31, 1991, converted and amended by Law n. 172 dated February 18, 1992).

- 1. The words "600, 600-*bis*, 600-*ter*, 600-*quater*, 600 *quinquies*, 601, 602" are added after the words "in articles"; and the words "and referred to in article 3 of Law n. 75 dated February 20, 1958" are added after the words "Penal Code" in Article 10 of the decree-law n. 419 dated December 31, 1991, converted and amended by Law n. 172 dated February 18, 1992, paragraph 1.
- 2. If the offended party is a minor, the provisions of the last sentence of paragraph 3 of Article 14 of Law n. 269, dated August 3, 1998 shall apply.

Art. 9

(Provisions concerning the interception of conversations or communications)

- 1. With reference to any proceeding concerning the offences referred to in Book II, Title XII, Heading III, Section I of the Penal Code, as well as in Article 3 of Law n. 75 dated February 20, 1958, the provisions of Article 13 of the decree-law n. 152, dated May 13 1991, converted and amended by Law n. 203 dated July 12, 1991 and subsequent modifications shall apply.

Art. 10

(Undercover activities)

- 1. With reference to any proceeding concerning the offences referred to in Book II, Title XII, Heading III, Section I of the Penal Code, as well as in Article 3 of Law n. 75 dated February 20, 1958, the provisions of Article 4, paragraphs 1, 2, 4, 5, 6, and 7 of the decree-law n.

374, dated October 18, 2001, converted and amended by Law n. 438 dated December 15, 2001 shall apply.

2. This, without prejudice to the provisions of Article 14 of Law n. 269, dated August 3, 1998.

Art. 11

(Provisions pertaining to the penitentiary system and concerning prosecution witnesses)

1. In Paragraph 2 of Article 9 of the decree-law n. 8 dated January 15, 1991, converted and amended by Law n. 82 dated March 15, 1991 and subsequent modifications, the words "and in articles, 600-*bis*, 600-*ter*, 600-*quater*, and 600 *quinquies* of the Penal Code" are added after the words "referred to in article 51, paragraph 3-*bis* of the Code of Criminal Procedure".

2. In Article 16-*nonies* of the above-mentioned decree-law n. 8 dated 1991, the following point is added after paragraph 8:

"8-*bis*. The provisions of this present article also apply, as they are compatible, to any person convicted for any of the crimes referred to in Book II, Title XII, Heading III, Section I of the Penal Code, who may collaborate with the prosecution, even after conviction, and meeting the requirements envisaged by Article 9, paragraph 3".

Art. 12

(Anti-trafficking measures Fund)

1. As from the date this present Act comes into effect, an anti-trafficking measures Fund is hereby established by the Prime Minister's Office.

2. Said Fund shall be used to finance support and social integration programmes for trafficking victims, and for all other social protection purposes referred to in article 18 of the Amalgamated Law consolidating the provisions concerning immigration regulation and the status of aliens of Legislative Decree n. 286 dated July 25, 1998.

3. The following resources shall be appropriated for the Fund referred to in paragraph 1 above: the amounts appropriated under Article 18 of the Amalgamated Law referred to in Legislative Decree n. 286 dated July 25, 1998; all confiscated proceeds of crime under seizure orders following conviction or plea bargain for any of the offences envisaged by Articles 416, sixth paragraph, 600, 601, and 602 of the Penal Code; all confiscated proceeds of crime seized, for the same offences, under article 12-*sexies* of decree-law n. 306 dated June 8, 1992, converted and amended by Law n. 356 dated August 7, 1992 and subsequent modifications, departing from the provisions of paragraphs 4-*bis* and 4-*ter* of the aforesaid article.

4. In Article 80, Paragraph 17, letter m) of Law n. 388 dated December 23, 2000, the following words are added at the end: ", except from any amount appropriated under Article 18".

5. Paragraph 2 of Article 58 of the regulation referred to in Presidential Decree n. 394, dated August 31, 1999 is abrogated.

Art. 13

(Launching of a special support programme for the victims of the offences envisaged by Articles 600 and 601 of the penal Code)

1. Excepting all cases envisaged by Article 16-*bis* of decree-law n. 8 dated January 15, 1991, converted and amended by Law n. 82 dated March 15, 1991 and subsequent modifications, a special support programme is hereby launched for the victims of the offences envisaged by Articles 600 and 601 of the Penal Code, as replaced by Articles 1 and 2 respectively of this present Act. Said programme shall be carried out within the limits of the resources referred to in Paragraph 3; it shall aim at temporarily guaranteeing adequate accommodation, food and healthcare conditions to the aforesaid victims. The above-mentioned programme shall be defined by a regulation to be adopted under Article 17, paragraph 1, of Law n. 400 dated August 23, 1988, upon the proposal of the Minister for Gender Equality, liaising with the Minister of the Interior and the Minister of Justice.

2. Should the victim of any of the offences referred to in articles 600 and 601 of the Penal Code be an alien, there shall be no prejudice to the provisions of Article 18 of the aforementioned Amalgamated Law referred to in legislative decree n. 286 of 1998.

3. The costs entailed by the enforcement of this present article, amounting to 2.5 million Euros per year as of 2003, are covered by proportionally reducing the 2003-2005 budget appropriation written in the current fund "Special Provision" base previsionsal unit of the Ministry of the Economy and Finance's forecast for 2003, by partially utilising the provision pertaining to the above-mentioned Ministry.

4. The Minister of the Economy and Finance is hereby authorised to issue, by decree, any budget supplementary estimate required.

Art. 14

(Preventive measures)

1. With a view to improving the effectiveness of preventive actions targeting offences such as enslavement, continuing enslavement or servitude, as well as all offences concerning trafficking in human beings, the Minister of Foreign Affairs defines cooperation policies with the countries that are confronted with said crimes, taking into account their cooperation contribution as well as their awareness vis-à-vis human rights protection issues; the Minister of Foreign Affairs, liaising with the Minister for Gender Equality, also organises international meetings and information campaigns, even in the Countries of origin of most trafficking victims. With the same purpose, the Minister of the Interior, the Minister for Gender Equality, The Ministers of Justice, Work and Social Policies may organise, if necessary, training courses for the relevant staff and any other useful initiative.

2. The implementation of this present article should not entail any further cost to be charged to the State Budget.

Art. 15

(Coordination provisions)

1. In Article 600-*sexies*, first paragraph, of the Penal Code, the words “, as well as by articles 600, 601, and 602” are added after the words “600-*quinqüies*”.

2. In Article 600-*sexies*, second paragraph, of the Penal Code, the words “, as well as articles 600, 601 and 602 if the offence is perpetrated against a minor” are added after the words “600-*ter*”.

3. In Article 600-*sexies*, fourth paragraph, of the Penal Code, the words “, as well as articles 600, 601 and 602” are added after the words “600-*ter*”.

4. Finally, the following paragraph is added to article 600-*sexies* of the Penal Code:

“Any mitigating circumstance other than the one envisaged by Article 98, concurring with the aggravating circumstances referred to in the first and second paragraphs, cannot be considered as equivalent or prevailing with respect to the latter, and punishment mitigation is to be calculated based on the harsher punishment resulting from consideration of the above-mentioned aggravating circumstances”.

5. Article 600-*septies* of the Penal Code is replaced by the following:

“Art. 600-*septies*. – (*Confiscation and ancillary punishments*). In the event of conviction, or of plea bargain under Article 444 of the Code of Criminal Procedure, for all crimes referred to in this present section, without prejudice to the right of repayment and compensation for damage of any offended person, confiscation is envisaged under Article 240 and, when it is not possible to confiscate the proceeds of crime, confiscation of the offender’s property, up to the equivalent value of the aforementioned proceeds is envisaged. In any case, the shut-down of any business whose activity aims at perpetrating the offences referred to in this present section is prescribed, as well as the revocation of the relevant trade licences, or concessions or television and radio broadcasting licences”.

6. In the first paragraph of Article 609-*decies* of the Penal Code, the following: “600,” is added after the words “by articles”, and the following: “601, 602,” is added after the words “600-*quinqüies*”.

7. In Article 392 of the Code of Criminal Procedure, paragraph 1-*bis*, the following: “600,” is added after the words “in articles”, and the following: “601, 602,” is added after the words “600-*quinqüies*”.

8. In Article 398 of the Code of Criminal Procedure, paragraph 5-*bis*, the following: “600,” is added after the words “by articles”, and the following: “601, 602,” is added after the words “600-*quinqüies*”.

9. In Article 472 of the Code of Criminal Procedure, paragraph 3-*bis*, the following: “600,” is added after the words “by articles”, and the following: “601, 602,” is added after the words “600-*quinqüies*”.

10. In Article 498 of the Code of Criminal Procedure, paragraph 4-*ter*, the following: “600,” is added after the words “in articles”, and the following: “601, 602,” is added after the words “600-*quinqüies*”.

Art. 16

(Transitional provisions)

1. The provisions of paragraph 1, letter a) of Article 6 only apply to offences perpetrated after this present Act’s effective date.

2. The provisions of paragraph 1, letter b) of Article 6, only for the purpose of designating the offices playing the role of Public Prosecutor, or examining judge, or pre-trial examination magistrate, do not apply to those proceedings in which the crime notification to the judicial authority is registered as per Article 335 of the Code of Criminal Procedure before this present Act’s effective date.

3. The provisions of paragraph 2, Article 7 do not apply to prevention proceedings that are already pending the day this present Act takes effect.

This present Act, bearing the Great Seal of this State, shall be included in the official Collection of the Italian Republic Legislative Acts. All relevant actors shall comply with and enforce it as a Law of the State.

Date: La Maddalena, on the 11th day of August 2003.

CIAMPI

Berlusconi, Prime Minister

Prestigiacomo, Minister for Gender Equality

Castelli, Minister of Justice

Endorsed by Mr. Castelli, Minister of Justice