

Standing Subcommittee on European Union Affairs on 9 June 2010

Application for a Committee statement

by Members of Parliament Mag. Heribert Donnerbauer and Mag^a Christine Muttonen

The Committee is requested to adopt the following:

I.

The Standing Subcommittee on European Union Affairs discussed the European Commission proposal regarding

COM(2010) 95 final Proposal for a Directive of the European Parliament and the Council on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA (28731/EU XXIV.GP)

at a public hearing on 9 June 2010, examined the content of the proposal and its compatibility with the principles of subsidiarity and proportionality and came to the following conclusion:

1. The aims of this proposal are explicitly welcomed. Combating trafficking in human beings is a clear expression of the European system of values in which the exploitation of human beings can have no place. As trafficking in human beings is a transborder problem, there is no doubt that measures at the European level are a useful instrument for effectively countering this problem. A coordinated approach by the EU Member States also ensures that existing loopholes in the prosecution of trafficking in human beings are closed and that sanctions have a unifying deterrent effect.
2. These aims cannot be adequately achieved by the individual states on their own. The proposed Directive will have a positive effect on international cooperation and will help to achieve a higher standard of protection and better support for the victims. From a formal point of view, it is regrettable that the Commission gives no estimate of the financial consequences.
3. The particular attention paid by the European Commission to the gender- and age-specific components of trafficking in human beings is particularly gratifying, since women, girls and minors are particularly affected by this form of trafficking. This being the case, priority

should be given to the protection of women, girls and minors who have become victims of such trafficking.

4. The comprehensive approach chosen by the European Commission as expressed in the proposal is in line with the requirements of a modern judicial system. Thus it deals not only with the prosecution of offenders but also in particular with measures to look after and protect the victims. In this regard the provisions regarding preventive measures in the proposal are also to be welcomed.
5. The uniform definition of trafficking in human beings in the proposal goes beyond the definition in the relevant Council of Europe Convention and includes all forms of forced labour defined by the International Labour Organization. The proposed Directive thus provides an important addition to the relevant protection provisions.
6. The criminal liability of legal persons is the logical consequence of a comprehensive strategy to counter trafficking in human beings. Involvement in trafficking of this kind under cover of an organisation or company should not be possible. The scope of article 5 should not be limited and the aim of strengthening the internal control mechanisms for legal persons should not be adversely affected. It should therefore be examined whether the Member States can be explicitly offered the option of prosecuting legal persons for acts that, even if they do not constitute an abetment, nevertheless represent gross liability on the part of the legal person. This could additionally reinforce the fight against trafficking in human beings.
7. Finally, we should like to point out that we basically support the intention of the proposal to provide the prosecuting authorities with sufficient instruments to combat trafficking in human beings. At the same time, such strengthening should not result in the bypassing of guarantees of due legal process provided especially for investigation proceedings.

II.

The Standing Subcommittee on European Union Affairs expects that the relevant member of the Federal Government will be guided by this statement of the Austrian position in the negotiations and voting in the Council.

III. Communiqué

The Standing Subcommittee for European Union Affairs has decided to publish this statement as a communiqué in accordance with section 39.1 and 39.3 of the Rules of Procedure of the National Council (GOG-NR) and to attach extracts of the presentation. The President of the

National Council is also requested to transmit this statement to the Austrian Federal Government, the Verbindungsstelle der Bundesländer (Liaison Office of the Federal Provinces), the European Commission, the Council, the European Parliament, the Committee of the Regions, COSAC and IPEX.