

Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA

DOCUMENT APPROVED BY THE EUROPEAN UNION POLICIES COMMITTEE

The European Union Policies Committee,

having examined the Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA, for the purpose of ascertaining its compliance with the subsidiarity principle, according to the early warning procedure set out in Protocol n. 2 annexed to the Lisbon Treaty;

having regard to the impact assessment accompanying the Proposal (SEC(2009) 358);

whereas:

(a) the legal basis of the proposal, namely, article 82 (2) and article 83 (1) of the Treaty on the Functioning of the European Union (TFEU), in the light of the substance and the purposes of the proposal, appears to be wholly appropriate;

(b) the measures envisaged by the proposal appear to be necessary and timely, considering the worrying and increasing magnitude of the trafficking of human beings and its distinctly transnational character;

(c) the grounds for the proposal in terms of compliance with the subsidiarity principle, as evidenced from the report illustrating it and its impact assessment, appears to be wholly appropriate;

(d) with regard to the current framework decision 2002/629/JHA, this proposal offers a clear added value because it approximates the Member States' substantive criminal law and procedural rules more extensively, with positive fallout in terms of international cooperation between law enforcement authorities and judicial authorities, and of the protection and assistance given to victims;

(e) the proposal offers a clear added value in terms of its objectives, purposes and effectiveness, also in relation to the Council of Europe Convention on Action Against Trafficking in Human Beings of 2005, which became effective on 1 February 2008 and was signed by all the Member States of the EU except for the Czech Republic;

(f) in particular, in relation to the Convention, the proposal would: clearly establish the precise level of penalties adapted to the severity of the offences (article 4); introduce broader and more binding extraterritorial jurisdiction, and oblige Member States to prosecute nationals and habitual residents who have committed the crime of people trafficking, even if outside the

territory of that Member State (article 9); broaden the scope of the provision on non-application of penalties to victims for their involvement in criminal activities, whatever illicit means have been used by the people traffickers (article 7), and provide higher standards of assistance to victims, especially concerning medical treatment (article 10), and special protective measures for child victims of trafficking in human beings (Articles 12-14);

(g) at all events a European Union legislative act is more effective than the Convention by making it possible to draw on all the instruments and procedures provided by the Treaties to be promptly enforced in the national legal systems and ensuring their uniform interpretation;

DECLARES THE PROPOSAL COMPLIANT

with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union.