International Labour Organisation (ILO) Convention of 2011 concerning decent work for domestic workers (Convention No 189): ratification by Member States

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PURPOSE: to authorise Member States to ratify, in the interests of the European Union, the Convention concerning decent work for domestic workers, 2011, of the International Labour Organisation (ILO Convention No 189).

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council may adopt the act only if the European Parliament has given its consent.

BACKGROUND: the Domestic Workers Convention No 189 was adopted at the 100th Session of the International Labour Conference on 16 June 2011 and is due to enter into force in September 2013. It lays down global minimum labour protection for domestic workers. This text is among the ILO Conventions that have been classified by the ILO as up to date and are therefore actively promoted.

The European Union (EU) is committed to promoting the decent work agenda, both internally and in its external relations. Labour standards are a core element of the concept of decent work. The ratification of ILO Conventions by Member States thus sends an important signal as to the consistency of the Union's policy in improving labour standards worldwide.

In addition, as part of the EU's Strategy towards the eradication of Trafficking in Human Beings, the Commission urged Member States to ratify all international instruments, agreements and legal obligations which will contribute to addressing trafficking in human beings in a more effective, coordinated and coherent manner. These include the Domestic Workers Convention No 189.

It is therefore necessary that any legal impediments to ratification by Member States be removed at the level of the EU for the Domestic Workers Convention No 189, the substance of which does not cause concern in the light of the existing Union *acquis*.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 153of the Treaty on the Functioning of the European Union (TFEU) in conjunction with Article 218(6) (a) (v) and Article 218(8), first subparagraph thereof.

CONTENT: this proposal makes provision for the authorisation of the Member States to ratify ILO Convention No 189 concerning decent work for domestic workers.

Scope: the provisions of the Domestic Workers Convention No 189 are intended to help curb the abuse and exploitation of domestic workers.

Definitions: a domestic worker is defined as any person engaged in domestic work (work performed in or for a household or households) within an employment relationship.

Principles: the Convention requires ILO Member States to take measures to prevent violence and child labour in the domestic employment setting. The fundamental labour-related rights of domestic workers are protected by requiring each State party to take the measures set out in the Convention to respect, promote and realise the fundamental principles and rights at work.

Main provisions: the Convention requires ILO Member States to:

- establish a minimum age for domestic work and safeguards for workers under age 18;
- prevent abuse and violence;
- ensure fair terms and decent conditions of employment;
- make certain that workers are informed of the terms and details of their employment;
- regulate foreign recruitment and ensure freedom of movement;
- mandate equal treatment between domestic workers and other workers with regard to compensation and benefits;
- regulate and monitor private employment agencies; and
- develop a specific complaints mechanism.

Competences: the Domestic Workers Convention No 189 addresses areas of Union law where the degree of regulation has already reached an advanced stage. It mainly deals with aspects relating to the social policy area, where Union law sets minimum requirements on health and safety at work, protecting young people at work, maternity protection, the written statement, working time, immigration and temporary agency work2. It deals with aspects relating to the anti-discrimination area where Union law sets minimum requirements on employment equality, gender equality and maternity protection. It also deals with aspects relating to judicial cooperation in the criminal matters area and in the asylum and immigration area.

In accordance with the rules on external competences that have been drawn up by the Court of Justice of the European Union6, and more specifically as regards the conclusion and ratification of a Convention of the International Labour Organisation, Member States are not in a position to autonomously decide on the ratification of a Convention without the Council's prior authorisation, where parts of the Convention fall under Union competence.

At the same time, the European Union as such cannot ratify any ILO Convention, because only States can be parties to such conventions.

Consequently, if the subject-matter of an agreement or contract falls partly within the competence of the Union and partly within that of the Member States, **the Union institutions and the Member States must take all the necessary measures to best ensure cooperation in ratifying the Convention** and in implementing commitments resulting from that Convention.

The Council shall therefore authorise the Member States that are bound by Union law on minimum requirements in the area of working conditions to ratify the Convention in the interests of the European Union.

BUDGETARY IMPLICATION: the proposal has no implications for the EU's budget.