EC/Switzerland Agreement: free movement of persons; accession of Croatia to the EU. Protocol

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PURPOSE: to conclude a Protocol to the Agreement between the European Community and its Member States, of the one part, and Switzerland, of the other, on the free movement of persons, to take account of the accession of Croatia to the European Union.

PROPOSED ACT: Council Decision.

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

BACKGROUND: the Agreement between the European Community and its Member States, of the one part, and Switzerland, of the other, on the free movement of persons was signed on 21 June 1999 and entered into force on 1 June 2002.

It has since been extended twice, notably to states in eastern Europe: first of all to the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (entry into force in 2006) and Bulgaria and Romania (entry into force in 2009). It is now necessary to revise the 2002 Agreement to take account of Croatia's accession to the EU on 1 July 2013.

On 24 September 2012, the Council authorised the Commission to open negotiations with Switzerland with a view to concluding the relevant protocol. The negotiations were successfully concluded by the initialling of the Protocol.

It is now necessary to approve the Protocol on behalf of the European Union.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 217 in conjunction with Article 218(6)(a) and the second subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: with this proposed Decision, the Council is called upon to approve, on behalf of the Union, the Protocol to the Agreement between the European Community and its Member States, of the one part, and Switzerland of the other, on the free movement of persons to take account of the accession of Croatia to the European Union.

Principles: the Protocol seeks to revise the 2002 Agreement in order to take into account the accession of Croatia as regards the free movement of persons. It is provided that for a **period of 7 years** from the entry into force of the Protocol, Switzerland may limit the access of Croatian citizens into the labour market (quotas, priority to local workers, control of working conditions and wages).

During the last two years of this transition period, the restrictions must be accepted by a mixed Switzerland-EU committee.

Labour market restrictions: Switzerland may maintain quantitative limits in respect of access by workers employed in Switzerland and for self-employed persons who are nationals of Croatia for the following two categories of residence:

- residence for a period of **more than four months** and less than one year;
- residence for a period **equal to, or exceeding, one year**.

N.B.: the draft Protocol does not provide any restrictions on residence of less than four months.

The quantitative limits are set for **each year of the Protocol's seven year implementation**. The quotas for each year are progressive so that Switzerland may **open gradually, year by year, its labour market to Croatian workers**.

Regular labour market and controls: further provisions are laid down to enable Switzerland and Croatia to maintain the controls on the priority of workers integrated into the regular labour market and the wage and working conditions applicable to nationals of the other Contracting Party concerned. The same controls may be maintained for persons providing services in the following sectors:

- horticulture;
- construction, including related branches;
- security activities;
- industrial cleaning.

Review of the Protocol: before the end of the transitional period, the Joint Committee shall review the functioning of the transitional period applied to nationals of Croatia on the basis of a report from Switzerland. Upon completion of the review, Switzerland shall notify the Joint Committee whether it will continue applying quantitative limits to workers employed in Switzerland. Switzerland may continue to apply such measures for five years after the entry into force of the aforementioned Protocol.

Croatia should be entitled to introduce the same quantitative limits for Swiss nationals for the same periods.

Safeguard clause: at the end of the 7-year period of the Protocol, Switzerland shall have the opportunity for a **further three years**, to **unilaterally** activate the safeguard clause against Croatian citizens with a view to limiting the number of residence permits to allow them to work. Specific provisions are laid down to this effect.

Duration of the transitional period: the total transition period with safeguard clause – if applicable – is **10 years** from the date of entry into force of the Protocol.

BUDGETARY IMPLICATIONS: the proposal has no impact on the EU budget.