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

2013/0321(NLE) - 08/11/2016 - Final act

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 part, on the free movement of persons, to take account of the accession of Croatia to the European Union.

NON-LEGISLATIVE ACT: Council Decision (EU) 2017/192 on the conclusion of a Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union

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

The agreement has been adapted for the first time in order to take account of the participation, as contracting parties, in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, following their accession to the European Union (entry into force in 2006) and then a second time to take account of the accession of Bulgaria and Romania (entry into force in 2009).

It is now appropriate to adapt the 2002 Agreement to the accession of Croatia to the European Union on 1 July 2013.

CONTENT: With this Decision, the Protocol to the Agreement between the European Community and its Member States, of the one part, and Switzerland, of the other part, on the free movement of persons, concerning the participation of Croatia, as a contracting party, following its accession to the European Union, is hereby approved on behalf of the European Union and its Member States.

Objective: The Protocol seeks to adapt the 2002 Agreement in order to take account of the accession of Croatia to the free movement of persons.

For a period of seven years from the date of entry into force of the Protocol, Switzerland may restrict the access of Croatian citizens to its labour market (quotas, priority to local workers, control of working conditions and wages).

During the last two years of this transitional period, the continuation of these restrictions will be approved by a Joint Switzerland-EU Committee.

Restrictions on the labour market: Restrictions on the access of Croatian nationals to the Swiss labour market for employed and self-employed workers have been provided for in accordance with the quotas set out in the draft protocol.

The Protocol does not provide for any quantitative limitation for stays of under 4 months.

The quantitative limits are set for each year of **application of the Protocol** over the 7 years of its application. The quotas set for each year are progressive **so that Switzerland can gradually open its labour market to Croatian workers year by year**.

Control of access to the regular labour market: there are provisions for authorising the Parties to maintain controls on the integration of workers into the parties' regular labour market and on the working conditions and wages of workers.

Controls could also be applied for service providers operating in the following sectors:

- horticulture
- construction,
- security,
- industrial cleaning.

Examination of the Protocol: before the end of the period of validity of the Protocol, the Joint Committee provided for in the original agreement should examine the operation of the Protocol, on the basis of a report prepared by Switzerland. Taking this into account, Switzerland will have to notify the Joint Committee if it intends to continue to apply quantitative limits to Croatian workers employed in Switzerland for new periods as detailed in the Protocol.

Croatia may also introduce equivalent quantitative limits for Swiss nationals during the same periods.

Safeguard clause: at the end of the 7-year period of application of the Protocol, Switzerland will have the possibility, for a **further 3 years**, to invoke **unilaterally** a safeguard clause with regard to Croatian citizens with a view to limiting the number of residence permits granted to enable them to work. Specific conditions are provided for in the Protocol.

Duration of the transitional period: the duration of the transitional regime vis-à-vis Croatia shall cover a period of **10 years** in all cases from the entry into force of the Protocol.

ENTRY INTO FORCE: the Decision enters into force on 8.11.2016.