UN Convention against transnational organised crime (UNTOC): protocol against the smuggling of migrants by land, sea and air

2003/0196(CNS) - 17/10/2005 - Amended legislative proposal for reconsultation

PURPOSE : to amend the proposed Council Decision on the conclusion, on behalf of the European Community, of the Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention Against Transnational Organised Crime, in light of the numerous Community legislative acts which have been adopted since the presentation of the initial proposal by the Commission in 2003.

PROPOSED ACT : Council Decision.

CONTENT : since the Commission proposed, in August 2003, the conclusion, on behalf of the European Community, of the protocol against organised crime, the protocol against the smuggling of migrants and the protocol against trafficking in persons, the only proposal relating to the Convention was adopted by the Council on 27 April 2004 (see CNS/2003/0195). The proposals concerning the protocol against the smuggling of migrants and the trafficking of persons still have to be adopted due to discussions between the Council and the Commission on the scope of Community competence with regard to these protocols.

Having regard to the adoption of a series of legislative instruments on the areas covered by the two protocols and adopted in 2004, it is proposed, on the one had, to include articles 66, 179 and 181 A of the EC Treaty to the legal basis for the conclusion of the protocols, and on the other hand, to bring about the necessary amendments to the textual description of the Community competence in the declaration of competence annexed to the draft Council Decisions.

The legislative instruments concerned are as follows :

Article 66 of the EC Treaty:

- § Council Regulation 377/2004/EC on the creation of an immigration liaison officers network “Immigration” : concerns Article 10 of the protocol against the smuggling of migrants and Article 10 of the protocol against trafficking in persons;

- § Council Decision 2004/512/EC establishing a visa information system (VIS) : concerns Article 10 of the protocol against the smuggling of migrants and Article 10 and 11 of the protocol against trafficking in persons;

- § Council Regulation 2007/2004/EC of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union : concerns Articles 10, 14 and 18 of the protocol against smuggling of migrants and Articles 8 and 10 of the protocol against trafficking in persons.

Articles 179 and 181 A of the EC Treaty: Regulation 491/2004/EC of the European Parliament and of the Council establishing a technical and financial assistance programme to third countries in the areas of migration and asylum (AENEAS programme) : concerns Articles 14 and 15 of the protocol against the smuggling of migrants and articles 9 and 10 of the protocol against the trafficking in persons.