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Committee on Employment and Social Affairs

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DRAFT RECOMMENDATION

on the draft Council decision authorising 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 (Convention No 189)

(11462/2013 – C7-0234/2013 – 2013/0085(NLE))

Committee on Employment and Social Affairs

Rapporteur: Inês Cristina Zuber

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision authorising 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 (Convention No 189) (11462/2013 – C7-0234/2013 – 2013/0085(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (11462/2013),
 - having regard to the request for consent submitted by the Council in accordance with Article 153, Article 218(6), second subparagraph, point (a)(v) and Article 218(8) of the Treaty on the Functioning of the European Union (C7-0234/2013),
 - having regard to Rules 81 and 90(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Employment and Social Affairs (A7-0000/2013),
1. Consents to the draft Council decision;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

Context of the Proposal

The International Labour Organisation's Convention No 189 concerning decent work for domestic workers was adopted in 2011 and came into force on 5 September that year. It establishes that ratifying States are required to take steps to ensure decent working conditions with social rights and to prevent abuse, violence and child labour in domestic work.

On 21 March 2013, the Commission presented a proposal for a Council decision authorising Member States to ratify the Convention (COM (2013) 152), such authorisation being necessary owing to some aspects of the Convention coming under EU control. This report recommends that Parliament allow this process to move forward.

It should be noted that a number of countries, mainly those from which migrant flows originate, have ratified the Convention: Bolivia (April 2013), Mauritius (September 2012), Nicaragua (January 2013), Paraguay (May 2013), the Philippines (September 2012), South Africa (June 2013) and Uruguay (June 2012). Also in the EU, there have been moves towards ratification of the Convention: Italy did so in January 2013 and Germany and Belgium intend to do so before long. In Latin America, countries such as the Dominican Republic, Colombia, Argentina and Costa Rica have already said that they intend to sign.

Main points of the Convention

The main aim of the Convention is to acknowledge the value of domestic workers and provide a series of guarantees, which include:

- recognition of the economic importance of domestic workers;
- recognition that domestic work has been undervalued and rendered invisible and that it is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and therefore particularly vulnerable;
- definition of a domestic worker as any person engaged in domestic work within an employment relationship;
- adoption by the signatory states of measures to respect, promote and realize the fundamental principles and rights at work (freedom of association and unionisation and effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour and elimination of discrimination in respect of employment), which are also, in many cases, human rights;
- setting of a minimum age for domestic workers consistent with the provisions of Conventions 138 and 182 and not lower than that established by national laws for workers generally, as well as measures to ensure that those under 18 are not deprived of the right to education;
- guaranteed decent living conditions for domestic workers who reside in the household in which they work and that they are not obliged to work or remain in the house during periods of rest or leave;
- the right of domestic workers to be informed of their conditions of employment in an appropriate and understandable manner and where possible through written contract (place of employment, start date and duration of contract, type of work to be performed,

remuneration, with method of calculation and periodicity of payments, hours of work, paid annual leave, daily and weekly rest periods, provision of food and accommodation, as applicable, without it being deducted from their wages, terms of repatriation, if applicable and period of notice in case of termination of employment);

- a legal requirement that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer or contract of employment prior to crossing national borders;
- equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave and social security protection, including with respect to maternity;
- weekly rest of at least 24 consecutive hours;
- minimum wage coverage for domestic workers, where such coverage exists, and remuneration established without discrimination based on sex;
- the right of domestic workers to a safe and healthy working environment;
- effective protection against abusive practices for domestic workers recruited or placed by private employment;
- effective access for domestic workers to tribunals and dispute resolution and complaint mechanisms, under conditions equal to those of other workers;
- effective measures for labour inspection, enforcement and penalties by the signatory states.

Comments

According to Eurostat data, there are 2.6 million domestic workers in the EU, of whom 89 % are women and half are migrants. Domestic work is one of the most unprotected and invisible forms of work, bearing in mind its isolated and individual nature. It is therefore often very difficult for domestic workers to obtain information about their rights or to organise themselves in representative associations or unions which can enable them to more securely defend their labour and social rights.

In a number of EU countries, domestic workers are frequently employed in precarious conditions, without a contract, their wages are paid late, they are required to work extra hours without due payment, their rights to leave and rest periods and paid public holidays are ignored and their social security contributions go unpaid.

ILO Convention 189 introduces the requirement to protect domestic workers, who often, as women and migrants, find themselves in extremely vulnerable situations, becoming victims of discrimination and many forms of abuse involving severe violations of their human rights.

The Convention specifies that its ratification does not affect more favourable provisions applicable to domestic workers' rights (Article 19).

The rapporteur wishes to make the following observations:

- Article 8 of the Convention refers to the protection of migrant workers and establishes the need for a contract or job offer from the employer before entering the host country. As specified in Article 8.2 of the Convention, this requirement shall not apply to regional economic integration areas, which means that there is no incompatibility between the

Convention and the principle of free movement within the EU. Nevertheless people trafficking, specifically of women, takes place not only between third countries and the EU but within the EU itself. The rapporteur therefore feels that Member States should pay particular attention to monitoring contracts issued in their countries, particularly by private employment agencies recruiting people from other countries as domestic workers (as referred to in point 26.2 of the Recommendation linked to the Convention).

- Point 20 of the above-mentioned Recommendation draws attention to the specific problems encountered by domestic workers working for multiple employers and who are normally paid an hourly or daily rate. These workers find themselves in an even more precarious situation. States should ensure that these workers enjoy no less social and labour protection than other workers and, in particular, that employers pay their social security contributions. In terms of remuneration, it is important to ensure that their wages are at least equivalent to national minimum wages legally established under national laws, as stipulated in the Convention.
- policies which exert pressure on wages and the labour rights of workers in general usually have a more serious and negative impact on the working conditions of those who are least protected, as is the case of domestic workers. The application of flexible employment policies – facilitating lay-offs, reducing wages and pensions, decapitalising social security systems, legalising precarious contracts, increasing working hours, abusing ‘self-employment’ for permanent duties, undermining collective agreements, etc – undoubtedly contradicts the principles of workers’ protection implicit in this Convention. The rapporteur therefore considers that it is essential and necessary to rescind these policies – mainly imposed by the European Semester, economic governance, the EU and IMF Troika-imposed budgetary consolidation policies – in order to coherently uphold the principles of ‘defending worker’ rights which are laid out in this Convention.