



Damian Green MP
MINISTER FOR IMMIGRATION
2 Marsham Street, London SW1P 4D
www.homeoffice.gov.uk

Chairman of the European
Scrutiny Committee
7 Millbank
London
SW1P 3JA

29 JUN 2010

Dear Chair,

Doc REF 8157!00

I am writing to inform you that the Government has made a decision not to opt in to the proposed EU Directive on Human Trafficking, but to review this position after implementation of the Directive, at which point the UK could apply to opt in retrospectively.

In arriving at this decision, the Government has assessed the Directive against the coalition agreement's case by case approach to European Union legislation and its commitment to combating trafficking. We have also considered whether the Directive adds value to the UK's anti-trafficking efforts, and whether or not it is affordable.

As you will be aware, this Directive seeks to enhance efforts at combating human trafficking through legally binding EU-wide minimum rules with sanctions on trafficking and victim care provisions. There is much that is positive about the Directive; it represents a significant positive development in efforts to combat human trafficking across the EU by introducing common minimum standards.

However, there are risks associated with the Directive. It is not clear that opting in provides much added value to the UK. The Directive will not make a significant practical difference to the way we combat trafficking and support victims and it does not give rise to any operational measures which the UK would benefit from or lose depending on its participation.

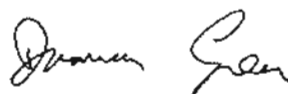
Additionally there may be changes to the Directive as a result of the remaining negotiations with the European Parliament which could affect UK interests, such as expanding support provisions for those who have not yet been

identified as victims of trafficking, and expanding extra-territorial jurisdiction. Whilst the Directive does not affect the integrity of the criminal justice system, it does impact upon it. The Directive would make mandatory measures which are currently discretionary (e.g. appointing special representatives to support child victims during police investigations and criminal trials), thus reducing flexibility on the part of professionals to respond in a manner suited to different cases. Furthermore, it requires primary legislation to put those parts of the Directive that create duties or rights into statute.

Deciding not to opt in, but agreeing to review our position after the Directive has been finalised enables the UK to benefit from being part of the Directive if it chooses without carrying any of the risk of being bound by measure contrary to the UK interest. It allows the UK to signal its continuing commitment to combating trafficking whilst ensuring that the text of the Directive best corresponds to the UK's interests.

I am copying this letter to, Chair of the Commons European Scrutiny Committee; Andrew Makower, Clerk to the Lords Committee; Alistair Doherty, Clerk to the Commons Committee; Paul Hardy, Legal Adviser to the Commons Committee; Les Saunders, Cabinet Office and to Deborah Maggs, Departmental Scrutiny Co-ordinator.

Yours sincerely,



DAMIAN GREEN MP



Damian Green MP
MINISTER FOR IMMIGRATION
2 Marsham Street, London SW1P 4DF
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The Lord Roper
Chairman of the European
Union Committee
House of Lords
London
SW1A 0PW

29 JUN 2010

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I am copying this letter to Lord Roper, Chair of the Lords European Union Committee; and to Alistair Doherty, Clerk to your Committee; Andrew Makower, Clerk to the Lords Committee; Les Saunders (Cabinet Office); and Deborah Maggs, Departmental Scrutiny Coordinator for the Home Office.

*Yours sincerely,
Damian Green*

DAMIAN GREEN MP