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to: Council

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No. Cion prop.: 13157/14 SOC 620 EMPL 101 MIGR 120 JAI 671 - COM(2014) 559 final

Subject: Proposal for a COUNCIL DECISION authorising Member States to ratify, in the interest of the European Union, the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation with regard to matters related to judicial cooperation in criminal matters
- *Agreement in principle*

Delegations will find attached the text on the above-mentioned subject, as approved by the Committee of the Permanent Representatives in the meeting on 20 February 2015 with a view to reaching an agreement in principle (as an A-item) at a next Council session.

Proposal for a

COUNCIL DECISION

authorising Member States to ratify, in the interest of the European Union, the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation as regards Articles 1 to 4 of the Protocol with regard to matters related to judicial cooperation in criminal matters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(2) in conjunction with Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The European Union is promoting the ratification of international labour conventions that have been classified by the International Labour Organisation as up-to-date, to contribute to the European Union's efforts to promote human rights and decent work for all as well as to eradicate trafficking in human beings both inside and outside the EU, of which the protection of fundamental principles and rights at work is a key aspect.
- (1a) The 1930 Forced Labour Convention, which the 2014 Protocol supplements, is a fundamental ILO Convention and has a bearing on rules which make reference to the core labour standards.

¹ OJ C , , p. .

- (2) Insofar as the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation (ILO), hereinafter ‘the Protocol’, covers the area of protection of victims of crime governed by Article 82(2) TFEU, the Union has already adopted common rules which cover this area to a large extent, in particular Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. The Protocol may affect these common rules.
- (3) [...]
- (4) Article 19(4) of the ILO Constitution, on the adoption and ratification of Conventions, similarly applies to a Protocol, which is a binding international agreement, subject to ratification and linked to a Convention.
- (5) The European Union cannot ratify the Protocol, as only States can be parties thereto.
- (6) Member States should therefore be authorised to ratify the Protocol, acting jointly in the interests of the European Union, for the parts falling under European Union competence in accordance with Article 82(2) TFEU.
- (6a) Articles 1 to 4 of the Protocol contain obligations relating to Union legislation concerning the protection of victims of crimes. As a consequence, those provisions fall within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (TFEU), and in particular Article 82(2) thereof.

- (7) Article 82(2) TFEU is the single legal basis that the present decision should be founded on. The Protocol also touches upon the residence status of victims of forced or compulsory labour to the extent that this is required to enable these victims to have access to appropriate and effective remedies (see, in particular, Article 4 of the Protocol). However, this purpose relating to Article 79 TFEU is merely incidental whilst the objectives relating to Article 82(2) TFEU are identifiable as the predominant purpose and component.
- (8) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not bound by this Decision and is not subject to its application to judicial cooperation in criminal matters.
- (9) The United Kingdom and Ireland are bound by Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims and Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and are therefore taking part in the adoption of this decision.
- (10) Member States should be authorised to ratify the Protocol with regard to judicial cooperation in criminal matters contained in Articles 1 to 4 thereof. The provisions of the Protocol falling within the competence conferred upon the Union other than the provisions related to judicial cooperation in criminal matters will be subject to a Decision adopted in parallel to this Decision.

HAS ADOPTED THIS DECISION:

Article 1

Member States are hereby authorised to ratify, for the parts, contained in its Articles 1 to 4, falling under the competence conferred upon the European Union in Article 82(2) TFEU, the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation.

Article 2

Member States should take the necessary steps to deposit their instruments of ratification of the Protocol with the Director-General of the International Labour Office as soon as possible, preferably by 31 December 2016.

Article 3

This Decision is addressed to the Member States.

Article 4

[...]

Done at Brussels,

For the Council

The President
