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Subject: COUNCIL DECISION authorising Member States to ratify, in the interests 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 relating to judicial cooperation in criminal matters

COUNCIL DECISION (EU) 2015/...

of

**authorising Member States to ratify, in the interests 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 relating 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 Parliament,

Whereas:

- (1) The Union is promoting the ratification of international labour conventions, classified by the International Labour Organisation (ILO) as up to date, to contribute to the Union's efforts to promote human rights and decent work for all and to eradicate trafficking in human beings both inside and outside the Union. The protection of fundamental principles and rights at work is a key aspect of that promotion.
- (2) The Forced Labour Convention, 1930, of the International Labour Organisation, which the Protocol of 2014 supplements, is a fundamental ILO Convention and has a bearing on rules which make reference to core labour standards.
- (3) In so far as the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation ('the Protocol') covers the area of protection of victims of crime governed by Article 82(2) of the Treaty on the Functioning of the European Union (TFEU), the Union has already adopted common rules which cover this area to a large extent, in particular through Directive 2011/36/EU of the European Parliament and of the Council¹ and Directive 2012/29/EU of the European Parliament and of the Council². The Protocol may affect those common rules.

¹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

² Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57).

- (4) Article 19(4) of the ILO Constitution, on the adoption and ratification of Conventions, similarly applies to Protocols, which are binding international agreements, subject to ratification and linked to Conventions.
- (5) The 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 Union, with regard to those parts falling within Union competence in accordance with Article 82(2) TFEU.
- (7) 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 TFEU, in particular Article 82(2) thereof.
- (8) Article 82(2) TFEU is the only legal basis that this Decision should be based on. The Protocol, in particular Article 4 thereof, also refers to the residence status of victims of forced or compulsory labour to the extent that this is required to enable those victims to have access to appropriate and effective remedies. However, this objective, which relates to Article 79 TFEU, is merely incidental whilst the objectives relating to Article 82(2) TFEU are identifiable as the predominant aim and component.
- (9) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application .

- (10) The United Kingdom and Ireland are bound by Directive 2011/36/EU and Directive 2012/29/EU, and are therefore taking part in the adoption of this Decision.
- (11) Member States should be authorised to ratify the Protocol with regard to matters relating to judicial cooperation in criminal matters contained in Articles 1 to 4 thereof. The parts of the Protocol falling within the competence conferred upon the Union, other than the parts 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 Articles 1 to 4 of the Protocol, falling within the competence conferred upon the European Union under 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.

Done at Brussels,

For the Council
The President
