Forced Labour Convention (1930) of the International Labour Organisation (ILO): matters related to judicial cooperation in criminal matters. Authorisation for Member States to rafify the 2014 Protocol

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PURPOSE: to authorise 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 (ILO) with regard to matters related to judicial cooperation in criminal matters.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the **Forced Labour Convention, 1930 (No 29)** of the ILO is one of the ILO's eight fundamental Conventions that make up the core international labour standards, and it is considered a human rights instrument.. Yet, more than 80 years later, despite almost universal ratification of the Convention, the practice still exists, albeit in different forms to those that provoked such concern in the early twentieth century. The ILO estimates that at least 20.9 million people globally are victims of forced labour.

In 2014, the International Labour Conference adopted the **Protocol on the forced labour convention** seeks to address gaps in implementation and to make progress on preventing trafficking for labour exploitation and protecting and compensating victims of forced labour.

The European Union (EU) is committed to **promoting human rights and decent work and to eradicating trafficking in human beings**, both internally and in its external relations. In ratifying ILO Conventions and related Protocols, EU Member States send an important signal on the coherence of the EU's policy in promoting fundamental principles and rights at work and improving working conditions worldwide.

CONTENT: the proposed Decision seeks to authorise the Member States to **ratify the Protocol of 2014 to the Forced Labour Convention, 1930, of the International Labour Organisation**.

The Protocol is a binding international agreement, subject to ratification, and is linked to the Convention. It creates legal obligations applicable to ratifying States and can only be ratified by States that have ratified the Convention.

In accordance with case law of the Court of Justice of the European Union (ECJ), and more specifically on concluding and ratifying an ILO Convention, Member States are not able to decide to ratify the Protocol outside the framework of the EU's institutions, as parts of the Protocol fall into areas of EU competence. However, the EU as such cannot ratify an ILO Protocol, because under the ILO rules only States can be parties to such Protocols.

The Protocol's provisions strengthen the international legal framework by establishing obligations to **prevent forced labour** and to provide victims with protection and access to remedies, such as compensation.

The Protocol sets out the **measures that ILO Member States must take to prevent forced labour**, namely:

- educating and informing people, especially those who are particularly vulnerable, and employers;
- making efforts to ensure that the coverage and enforcement of legislation relevant to the prevention of forced labour apply to all workers and all sectors of the economy and that labour inspection services are strengthened;
- protecting people, especially migrant workers, from potentially abusive and fraudulent recruitment and placement practices;
- supporting due diligence by both the public and private sectors; and
- addressing the root causes heightening the risks of forced labour.

The Protocol addresses areas of EU law that are already subject to an advanced degree of regulation: (i) certain aspects relating to judicial cooperation in criminal matters, in respect of which EU law sets minimum standards on anti-trafficking and victims' rights; (ii) certain aspects relating to rules on asylum and immigration.

The Commission proposes that the Decision should be based on the one hand on **Article 218(6) TFEU, in conjunction with Article 82(2) TFEU**, which provides the main legal basis for EU legislation on judicial cooperation in criminal matters relevant to addressing trafficking in human beings and victims' rights.

The provisions of the draft Protocol other than the provisions related to judicial cooperation in criminal matters will be subject to a Decision adopted in parallel to this Decision.

The Decision recommends that 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**.