



Council of the
European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)/Council
Subject:	Proposal for a Council Decision inviting Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization - Statement by Bulgaria

Delegations will find in the Annex a statement by Bulgaria, in relation to the abovementioned proposal.

STATEMENT OF THE REPUBLIC OF BULGARIA
on the Council Decision inviting Member States to ratify the Violence and Harassment
Convention, 2019 (No 190) of the International Labour Organization

‘The Republic of Bulgaria attaches great importance to the promotion and protection of human rights. The country is and will remain dedicated to its human rights commitments, including combating violence and harassment in the workplace.

In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe’s Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”) promotes legal concepts related to the notion of “gender” that are incompatible with the fundamental principles of the Bulgarian Constitution. Moreover, in 2021 the Constitutional Court further clarified that the notion of “sex” used in the Constitution, could, in the context of the national legal order, be understood in its biological sense only (men and women).

Article 1(1)(b) of Convention No 190 of the International Labour Organization (ILO) provides protection on both grounds of “sex” and “gender”, which, in light of the aforementioned judgments of the Constitutional Court, calls into question its conformity with the Bulgarian Constitution and thereby the country’s ability to ratify it. Consequently, the Republic of Bulgaria **does not support the Council Decision inviting Member States to ratify the International Labour Organization’s Violence and Harassment Convention, 2019 (No 190)**, in respect of which there is legal uncertainty as to whether or not it creates an obligation to ratify.

The Republic of Bulgaria is also concerned that the adoption of this Decision could affect the competence of Member States to decide independently whether or not to be bound by this Convention in accordance with the ILO’s Constitution, which could, in turn, jeopardise the position of Member States in negotiations for the adoption of future ILO Conventions and Recommendations covering matters of shared competence between the Member States and the Union.’