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'A' ITEM NOTE

From: General Secretariat of the Council
To: Council

Subject: Proposal for a COUNCIL DECISION authorising Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization
- General approach

I. INTRODUCTION

1. On 21 June 2019, at its 108th (centenary) session, the International Labour Conference adopted Convention 190 concerning the Elimination of Violence and Harassment in the World of Work¹ ('ILO Convention 190'), accompanied by Recommendation 206². It is the first international instrument setting out specific, globally applicable standards on tackling work-related violence and harassment. All EU Member States supported the objectives of this Convention and played a key role for its adoption.

¹ Convention C190 - Violence and Harassment Convention, 2019 (No. 190) (ilo.org)

² Recommendation R206 - Violence and Harassment Recommendation, 2019 (No. 206) (ilo.org)

2. On 22 January 2020, the European Commission presented a proposal for a "Council Decision authorising Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization".³

II. WORK AT THE COUNCIL

3. The Social Questions Working Party discussed the proposal on three occasions under the Croatian Presidency⁴, where delegations expressed their support for the Convention's objectives to tackle violence and harassment in the world of work. However, a number of delegations raised questions regarding the Union's competences in the areas covered by the Convention, the necessity for a Council Decision and the resulting obligation for Member States to ratify the ILO Convention 190. Further to these discussions, the text was revised to clarify the legal basis and the question of competences, with a view to reaching a general approach in March 2020.
4. The Committee of Permanent Representatives ('Coreper I') reflected on possible ways forward on three occasions⁵. On 18 December 2020, Coreper I requested the written opinion of the Council Legal Service on the question of Union competences for the ratification of the ILO Convention 190.
5. On 31 January 2023, the Social Questions Working Party, taking into consideration the Opinion of the Council Legal Service⁶, discussed the way forward. While several Member States expressed their intention to ratify the ILO Convention 190 as soon as possible, the majority of Delegations could not support a Council Decision entailing an obligation to ratify the Convention. Some delegations entered scrutiny reservations.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0024>

⁴ Social Questions Working Party meetings on 04/02/20, 18/02/20 and 20/03/20.

⁵ Coreper I meetings on 11/03/20 (ST6771/20), 09/12/20 (ST13993/20) and 18/12/20.

⁶ Doc. 13484/21

6. On 13 March 2023, the Council (EPSCO) held a political exchange of views on the ILO Convention 190. The Ministers supported the general aim of the Convention and called for a quick solution which would allow Member States to ratify Convention 190.
7. Taking into account the guidance provided, the Swedish Presidency worked on a revised text for a Council Decision,⁷ which was presented at Coreper on 19 April 2023. An indicative vote showed that the Presidency's compromise proposal would not be supported by the required qualified majority for adoption of the proposed Council Decision – if it were to proceed to a vote in the Council.
8. The Spanish Presidency continued work on the basis of the last draft and prepared a new proposal for a compromise text⁸. On 19 July 2023, the Permanent Representatives Committee approved the text and agreed to forward it the Council with a view to reaching a General Approach.

III. CONCLUSION

9. The Council is invited to reach a General Approach on the text as set out in the Annex to this note.

⁷ Doc. 8079/1/23 REV 1.

⁸ Doc. 11811/23.

Proposal for a

COUNCIL DECISION

inviting Member States to ratify [...] the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153 (2) in conjunction with point (a) [...] of Article 153 (1), Article 157(3) and 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) In 2019, in its 108th session the International Labour Conference adopted the International Labour Organization's Convention concerning the elimination on violence and harassment in the world of work, which may be cited as the Violence and Harassment Convention, 2019 (No. 190), ("the Convention").
- (2) The Union promotes the ratification of international labour conventions that have been classified by the International Labour Organization as up to date in order to promote decent work for all, health and safety at work and gender equality as well as to combat discrimination.

- (3) The Convention falls within the shared competence of the Union. Both the existing relevant Union rules and the provisions of the Convention set minimum requirements. The Convention does not risk affecting existing Union rules or alter their scope.
- (4) It is considered appropriate for the Union to exercise its competence regarding those parts of the Convention that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation, to the extent that the Union has adopted rules thereof.
- (5) The Union cannot ratify the Convention, as only States can be parties thereto.
- (6) In this situation, the Union external competence may be exercised through the intermediary of the Member States [...].
- (7) All EU Member States supported the objectives of this Convention and played a key role for its adoption. In the tripartite body proposing the Convention for ratification, no Member State voted against or abstained.
- (8) [...] Member States should be invited to ratify those parts of the Convention that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation, to the extent that the Union has adopted rules thereof, in accordance with the applicable national and constitutional procedures and practices and Article 19(5) of the ILO Constitution.

HAS ADOPTED THIS DECISION:

Article 1

Member States are invited to ratify, for the parts that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation under [...] Article 153 (2), 153 (1) (a) and [...] 157 (3) TFEU, the Violence and Harassment Convention, 2019 (No.190) of the International Labour Organization.

Article 2

[...]

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President