



Council of the
European Union

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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. prev. doc.: 12644/23, 12766/23
No. Cion doc.: 11545/23 REV 1 + ADD 1 REV 1, 11546/23

Subject: Council Decision authorising the European Commission to participate, on behalf of the European Union, in negotiations on a Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172)

- Adoption

and

Position paper by the European Union and its Member States concerning the draft Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law

- Approval

Introduction

The Council of Europe has decided to replace its 1998 Convention on the Protection of the Environment through Criminal Law.¹ In view of the negotiations, which are expected to start with a session from 16-18 October 2023, a mandate should be provided to the Commission to participate, on behalf of the Union, in these negotiations. A position paper should also be approved.

¹ Convention on the Protection of the Environment through Criminal Law, ETS No. 172, adopted on 4 November 1998.

State of play

– Council Decision

On 7 July 2023, the Commission presented a Recommendation for a Council Decision authorising the European Commission to participate, on behalf of the European Union, in negotiations on a Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law (ETS No. 172), as well as a draft Explanatory Report thereto (11545/23 REV 1 + ADD 1 REV 1).

On 14 July 2023, the JHA Counsellors (COPEN) examined the draft Council Decision and the accompanying draft negotiating directives for the first time.

On 19 July 2023, Coreper decided to add Article 83(2) TFEU to the legal basis of the draft Council Decision (12034/23).

On 4 September 2023, the JHA Counsellors examined the draft Council Decision and the negotiating directives for the second time on the basis of a revised text by the Presidency (12235/23).

Subsequently, an informal silence procedure was launched. The outcome of this procedure was that all Member States were able to agree at technical level with the text of the draft Council Decision and the accompanying negotiating directives (as set out in 12644/23).

Afterwards, the lawyer-linguists examined the text of the draft Council Decision. The text that resulted from this analysis is set out in 12693/23. The negotiating directives are set out in ADD 1 to this document.

– *Position Paper*

At the end of June, the Commission submitted a “Non-paper prepared by Commission services concerning the draft Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law” (11211/23). The paper aimed to define a position by the European Union and its Member States on the draft Council of Europe Convention. Following the above Recommendation for a Council Decision of 7 July 2023, the Commission presented a more detailed non-paper (11546/23) on 10 July 2023.

Delegations examined the non-papers at meetings on 5 on 14 July, and subsequently on 25 July (on the basis of 11969/23), and on 18 September 2023 (on the basis of 12766/23).

After this last meeting an informal silence procedure was launched. The outcome of this procedure was that all Member States were able to agree at technical level with the text of the “Position paper by the European Union and its Member States concerning the draft Council of Europe Convention superseding and replacing the 1998 Convention on the Protection of the Environment through Criminal Law” in 12891/23.

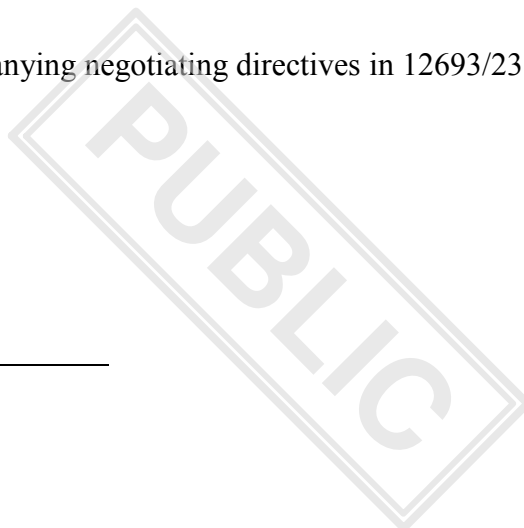
Conclusion

In the light of the above,

- a) the Permanent Representatives Committee is invited to:
- confirm the text of the draft Council Decision and the accompanying negotiating directives, in 12693/23 + ADD 1 and recommend that the Council adopts this Decision;
 - confirm the text of the position paper in 12891/23 and recommend that the Council approves this paper;

b) the Council is invited to:

- adopt the Council Decision, and the accompanying negotiating directives in 12693/23 + ADD 1;²
- approve the position paper in 12891/23.



² The Council Decision will be published in the OJ in accordance with Article 17(2)(b) of the Council's Rules of Procedure.