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COUNCIL OF THE EUROPEAN UNION
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FISHERIES

Non-legislative activities

3. **EU-UK: Annual consultations on fishing opportunities for 2024** 12133/23

Exchange of views

The Council held an exchange of views on the priorities and main objectives for the consultations with the United Kingdom on fishing opportunities for 2024, as well as on the fisheries consultations with Norway and the coastal States for 2024.

4. **EU-Norway and coastal states: Annual consultations for 2024** 12131/23

Exchange of views

Item 4 was taken together with item 3.

AGRICULTURE

Non-legislative activities

6. **Trade-related agricultural issues** 12640/23

Information from the Commission

Exchange of views

The Council exchanged views on recent developments in EU agri-food trade and trade agreements and negotiations at both the bilateral and multilateral level.

The Council also exchanged views on the situation regarding imports of certain agricultural products from the Ukraine following the expiration of the relevant safeguard measures on imports into the Union and the related announcements of the Ukraine in the framework of the cooperation platform set up to address the situation.

The Council took note of the information from the Commission, of delegations' comments and of the Commission's response.

The Presidency would continue to regularly invite the Commission to update the Council on trade-related agriculture issues.

Statements to the non-legislative "A" items set out in doc. 12856/23Ad "A" item 1:

Council Decision authorising Member States to ratify the 2019 ILO Convention on Violence and Harassment (No. 190)
General approach

STATEMENT OF THE REPUBLIC OF BULGARIA

“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.”

STATEMENT BY THE CZECH REPUBLIC

“The Czech Republic wishes to recall its position expressed on numerous occasions during the negotiations of the current, as well as previous Council Decisions allowing, inviting or authorizing the EU Member States to ratify the Conventions and Protocols of the International Labour Organisation (ILO). The Czech Republic has consistently interpreted these Council Decisions as measures that do not carry an obligation to ratify the international conventions in question. Rather, they are seen as instruments to facilitate the possibility of ratification, while also upholding the principle of full respect for the EU Member States as independent constituents of the ILO. In this context, each EU Member State retains its discretion in initiating the ratification process, solely guided by its national decision-making, without being subjected to measures concerning Treaty violations.

The Czech Republic insists on the need for an explicit confirmation that would allow EU Member States to ratify voluntarily the Violence and Harassment Convention No. 190 of the ILO within their national jurisdiction. Without this premise and in the absence of a clear legal interpretation at the Coreper meeting on 19 July 2023, the Czech Republic is not in a position to support the Council Decision authorising Member States to ratify the Violence and Harassment Convention 2019 (No. 190) of the International Labour Organisation and abstains from voting.

The Czech Republic takes note and appreciates the Commission's affirmations, expressed on multiple occasions, to maintain the existing practice concerning this and all previous Council Decisions that it will not take steps to enforce the ratification of the ILO Conventions by EU Member States.”

STATEMENT BY LITHUANIA

- “1. Taking into consideration established practice of the European Commission with the previous Council Decisions regarding conventions and protocols of the International Labour Organisation (ILO), Lithuania supports the Proposal for a Council Decision inviting Member States to ratify the Violence and Harassment Convention, 2019 (No.190) of the ILO.
2. Lithuania strongly believes that adoption of this Council Decision will help to keep all EU Member States act in unity, support the objectives of future Conventions and play a key role for their adoption in the ILO tripartite body.
3. At the same time, Lithuania understands and emphasizes the position expressed during negotiations that this and previous Council's decisions do not create an obligation to ratify the relevant international convention as the EU Member States are autonomous constituents of the ILO, while this Council's decision is required at the European Union to be in line with the *acquis Communautaire*.”

STATEMENT BY HUNGARY

“Hungary, taking into account the Council Legal Service’s advice provided during the course of negotiations, would like to reiterate its legal view that there is no legal necessity to adopt a Council decision in order to allow Member States to ratify the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization (hereinafter: ILO Convention 190), because the Convention does not entail any exclusive EU competence. We note that the acts of seven Member States who have already ratified the Convention also de facto confirm that conclusion.

Without prejudice to the above, Hungary also takes note of the Commission’s multiple verbal statements that it will not take steps to enforce the ratification of the Convention by Member States even if a Council decision is adopted in this regard.

Finally, Hungary notes with regret the procedure leading to the adoption of the Council decision in question. In this regard we recall that the Coreper concluded at its meeting of 31 May 2023, to recommend to the Council to approve a statement to be entered into its minutes, whereby the Council notes that the required qualified majority cannot be reached for the adoption of the proposed Council decision. It is regrettable that the conclusions of the Coreper meeting have not been followed up.”

STATEMENT BY AUSTRIA

- “1. In principle, Austria emphasizes its legal view that the Council's decision inviting Member States to ratify the relevant international convention does not create an obligation.
2. EU Member States are autonomous constituents of the ILO. A ratification obligation contradicts the principle of tripartism enshrined in the ILO Constitution and the ILO Convention 1976 (No. 144) ratified by all EU Member States.
3. Austria takes note of the European Commission's assurances that she will refrain from legal steps against Member States opting for not ratifying the convention.”

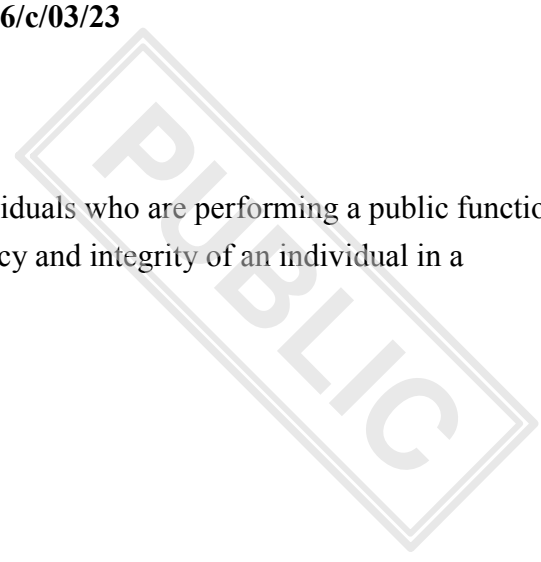
STATEMENT BY THE COMMISSION

“The Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization (ILO) was adopted during the ILO Centenary and its wide ratification is key for the effective elimination of violence and harassment at work. This new ILO Convention is a much-needed international instrument to protect the right of everyone to a world of work free from violence and harassment. Building on the important role played by the EU and its Member States in the process leading to the adoption of the Violence and Harassment Convention by the ILO, the Commission presented its proposal to provide the appropriate EU framework for the Member States to ratify individually for the matters falling under Union competence. Any difficulty by a Member State to ratify the Convention should not prevent the process of ratification by other Member States in the interest of the Union to proceed.”

Ad "A" item 8: **Public access to documents**
 Confirmatory application No 26/c/03/23
 Approval

STATEMENT BY FINLAND

“Finland is of the opinion that disclosing names of individuals who are performing a public function would not, in general, undermine the protection of privacy and integrity of an individual in a manner prescribed in Regulation 1049/2001.”



Ad "A" item 19:

Council Decision on the signing of the Agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction
Adoption

STATEMENT BY THE COUNCIL

“The Council notes that areas beyond national jurisdiction cover nearly two-thirds of the surface of the world’s ocean and ninety five percent of its volume and contain a rich marine biodiversity of both ecological and socioeconomic importance that is under mounting pressure. The Council therefore considers that the its decision to authorise the signature, on behalf of the Union, of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (the ‘BBNJ Agreement’) is one of the steps which promote the consistency in the Union’s conservation and management approach across the ocean and reinforce its commitment to the long-term conservation and sustainable use of marine biological resources globally.

The Council also notes that Article 67 of the BBNJ Agreement provides that, in the case of a regional economic integration organization that is a Party to the BBNJ Agreement, of which one or more member States are also Parties, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the agreement. Accordingly, and considering that the European Union’s Member States expressed their intention to become Parties to the BBNJ Agreement, the Council stresses the importance of addressing, at the stage of conclusion, on behalf of the Union, of the BBNJ Agreement, the distribution of competences between the Union and its Member States as well as of defining, when applicable, the internal arrangements regarding the exercise of the rights, and the fulfilment of the obligations of the Union and its Member States under the BBNJ Agreement. Such arrangements should duly take into account the legitimate interests of the Union and its Member States within their respective area of competences, and in particular those of a Member State in case of potential implications in areas under its national jurisdiction and should be in full compliance with the principles of conferral, institutional balance and sincere cooperation.”

STATEMENT BY THE COMMISSION

“1° The Commission considers that the decision on the signing of an international agreement should refer to the person designated by the negotiator as the one to be empowered to sign.

Therefore, the changes that provide for the President of the Council to designate the person who is to sign on behalf of the Union the “*Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction*” (BBNJ Agreement) in Article 2 are not in accordance with the Treaties.

As submitted by the Commission in the pending case *C-551/21* before the Court of Justice of the European Union, acts of external representation in the process of treaty-making, which include the signature of an international agreement, are, in accordance with Article 17(1) TEU, the institutional prerogatives of the Commission (with the exception of such acts pertaining to agreements falling exclusively or predominantly within the common foreign and security policy of the Union, where it is the High Representative who represents the Union externally according to Article 27(2) TEU).

The Advocate General agreed with the Commission in her opinion of 13 July 2023 in that case (ECLI:EU:C:2023:579).

2° The Commission also considers that recital 10 providing that the Council decision on signature should not be interpreted as making use of the possibility for the Union to exercise its external competence on areas covered by the BBNJ Agreement falling within shared competence to the extent that such competence has not yet been exercised internally by the Union is not in line with the case law on Article 3(2) TFEU. This recital on the Union refraining from exercising its shared competence prejudices on an objective test of exercise of a shared competence as the relevant case law allows the exercise of such competence by way of external action before internal rules are adopted.

3° In relation to recital 11 stipulating that the EU should become a Party to the BBNJ Agreement alongside its Member States since both have competences in the areas covered by the BBNJ Agreement and that the Council decision on signature is without prejudice to the signature of the agreement by Member States, in accordance with their internal procedures, the Commission considers that the phrase “*alongside its Member States*” could be seen as an implicit common accord requirement in the sense that the EU would have to wait until Member States sign the BBNJ Agreement alongside the EU.

While maintaining its general positions in respect of the above, the Commission is not opposing the adoption of the amended proposal for the signature, on behalf of the Union, of the BBNJ Agreement (ST 12416/23) by the Council by [a qualified majority] vote.”

Ad "A" item 25:

**Council Decision on the EU position in the International
Telecommunication Union World Radiocommunication
Conference 2023 (Dubai, UAE, 20 November - 15 December 2023)
*Adoption***

STATEMENT BY FINLAND

“The need for additional spectrum for mobile wireless technologies such as 5G and 6G will grow by 2030. Finland strongly believes that the EU should be proactive in its spectrum policy in order to stay competitive in the global wireless market and to reach EU’ digital targets for 2030 as well as ensure resilience and open strategic autonomy.

Finland considers it necessary to assess the primary allocation of the frequency band 470 – 694 MHz in the ITU Region 1 to the mobile service and include this matter to the agenda of the WRC-27.

With the extensive technical conditions set now for EU to be able to agree the IMT identification of the frequency band 6425 – 7125 MHz, Finland considers that the EU should have a more positive approach towards such an identification at WRC-23. This upper 6 GHz band is currently the only option for additional IMT spectrum to cater for the evolution of mobile service user applications and trends.

Finland also strongly considers that the EU should proceed with studies for possible candidate spectrum for 6G within the frequency range 7 125 MHz – 30 GHz by WRC-27, while acknowledging the need to safeguard the incumbent use in this spectrum and without jeopardizing usages relevant to the Common Security and Defence Policy or to the Union’s Space policy.”