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

Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving the gender balance among directors of listed companies and related measures **(first reading)**
- Adoption of the Council's position at first reading and of the statement of the Council's reasons
= Statements

Statement by Bulgaria

Република България отдава голямо значение на утвърждаването и защитата на правата на човека. Страната е и ще продължи да бъде отдадена на ангажиментите си в областта на правата на човека.

През 2018 г. Конституционният съд на Република България прие решение, в което се посочва, че Конвенцията на Съвета на Европа за превенция и борба с насилието над жени и домашното насилие („Истанбулската конвенция“) утвърждава правни концепции, свързани с понятието „социален пол“ (англ. „gender“), които са несъвместими с основните принципи на Конституцията на България. Освен това през 2021 г. Конституционният съд допълнително поясни, че понятието „пол“ (англ. „sex“), използвано в Конституцията, в контекста на националния правов ред, следва да се разбира само в неговия биологичен смисъл (мъже и жени).

Република България не се противопоставя на приемането на проекта на Директива относно подобряването на баланса между половете между директорите на фирми, регистрирани на борсата и свързаните с това мерки, като отчита колко важен е въпросът, но в съответствие с горепосочените решения на Конституционния съд **заявява, във връзка с референциите към термина „gender“ в Директивата, че Република България го разбира само в неговия биологичен смисъл.**

Statement by Germany

Die Bundesrepublik Deutschland legt die Richtlinie so aus, dass die geltende deutsche Rechtslage unter die Aussetzungsklauseln fällt und aus ihr nach Inanspruchnahme der Aussetzungsklauseln keinerlei nationaler Umsetzungsbedarf für Deutschland folgt.

Statement by Hungary

Hungary considers initiatives to promote equal opportunities and equal treatment between women and men to be of the utmost importance, and therefore we generally support the aim of the proposed Directive to strengthen women's participation at all levels of decision-making, including in the economic sphere. Hungary recognizes and promotes equality between men and women in accordance with the Fundamental Law of Hungary, and the primary law, principles and values of the European Union, as well as commitments and principles stemming from the international law. For these reasons, the expression 'gender equality' will be interpreted by Hungary as equality between women and men, the expression 'gender balance' will be interpreted by Hungary as balance between women and men, in accordance with Articles 2 and 3 of the Treaty on the European Union and Article 8 and Article 157 paragraph 3 of the Treaty on the Functioning of the European Union. In connection with the above, the remaining expressions containing the term 'gender' will be interpreted by Hungary as sex, in accordance with Article 10, Article 19 paragraph 1 and Article 157 paragraphs 2 and 4 of the Treaty on the Functioning of the European Union.

Furthermore Hungary declares that the Commission's Communication on 'A Union of Equality: Gender Equality Strategy 2020-2025' referred to in the Directive should be interpreted with due regard to the national competences and the specific circumstances in each Member State.

Moreover, Hungary believes that the final text of the proposal does not take into account the fact that the Member States have very different situations when it comes to the proportions of women on boards in the companies concerned, and should therefore achieve very different levels of progress within the timeframe of the proposal. We believe that the degree of progress should have been better taken into account when applying the suspension clause.

Hungary believes that the final agreement among the co-legislators sacrifices too much of the suspension clause. The text has not kept the core elements of the suspension clause and, in addition, with the modified deadlines, the clause has been rendered meaningless. The penalties constitute an excessive interference in national law, thereby undermining the autonomy and flexibility of the Member States. The current formulation of Article 5 also imposes binding legal obligation to achieve the objectives. The final agreement also failed to satisfactorily address the concerns regarding the principles of subsidiarity and proportionality, and the need to appropriately take into consideration the different company and corporate laws of EU Member States. Consequently, Hungary is not in the position to support the adoption of this Directive.

Statement by Poland

Równość kobiet i mężczyzn została zapisana w traktatach Unii Europejskiej jako podstawowe prawo. Polska zapewnia równość kobiet i mężczyzn w ramach polskiego krajowego systemu prawnego zgodnie z międzynarodowymi traktatami praw człowieka oraz w ramach podstawowych wartości i zasad Unii Europejskiej. Z tych powodów, wyrażenie "gender equality" Polska będzie interpretowała jako równość kobiet i mężczyzn, a wyrażenie "gender balance" Polska będzie interpretowała jako równowagę kobiet i mężczyzn, zgodnie z art. 2 i 3 Traktatu o Unii Europejskiej oraz art. 8 i 157 para 3 Traktatu o Funkcjonowaniu Unii Europejskiej. W związku z powyższym, pozostałe wyrażenia zawierające termin "gender", Polska będzie interpretowała jako płeć ("sex"), zgodnie z art. 10, art. 19 para 1 oraz art. 157 para 2 i 4 Traktatu o Funkcjonowaniu Unii Europejskiej.