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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	27 October 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 678 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention') on the Adoption of a Decision to adopt Regional Plans in the framework of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') on Urban Wastewater Treatment and Sewage Sludge Management

Delegations will find attached document COM(2021) 678 final.

Encl.: COM(2021) 678 final

EUROPEAN
COMMISSION

Brussels, 27.10.2021
COM(2021) 678 final

2021/0355 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention') on the Adoption of a Decision to adopt Regional Plans in the framework of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') on Urban Wastewater Treatment and Sewage Sludge Management

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the position to be taken on the Union's behalf at the 22nd Meeting of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention') and its Protocols on a decision to adopt Regional Plans in the framework of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') on Urban Wastewater Treatment and Sewage Sludge Management.

2. CONTEXT OF THE PROPOSAL

2.1. The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols

The Barcelona Convention and its seven Protocols adopted in the framework of the Mediterranean Action Plan constitute the principal regional legally binding Multilateral Environmental Agreement for the Mediterranean Sea.

The Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') is one of the seven Protocols of the Barcelona Convention. It aims to take all appropriate measures to prevent, abate and eliminate to the fullest extent possible pollution of the Mediterranean Sea by dumping of wastes or other matter.

The European Union is a party to the LBS Protocol (amended)[1].

2.2. The Meeting of the Contracting Parties to the Barcelona Convention and its Protocols

The Meeting of the Contracting Parties to the Barcelona Convention and its Protocols brings together Ministers and senior officials representing all Contracting Parties to the Barcelona Convention and its Protocols. The Contracting Parties will meet between 7 and 10 December 2021 in Antalya, Turkey.

According to Article 25 of the Barcelona Convention, the European Union (the 'EU') shall exercise its right to vote with a number of votes equal to the number of its Member States which are Contracting Parties to this Convention and to one or more of its Protocols. The EU shall not exercise its right to vote when its Member States exercise theirs and conversely.

According to Article 15, paragraph 1, of the LBS Protocol, decisions on the adoption of action plans, programme and measures shall be made by a two-thirds majority of the Contracting Parties present and voting.

2.3. The envisaged act of the 22nd Meeting of the Contracting Parties to the Barcelona Convention and its Protocols

The Contracting Parties to the Barcelona Convention and its Protocols are to endorse a Decision adopting Regional Plans in the framework of Article 15 of the LBS Protocol on Urban Wastewater Treatment and Sewage Sludge Management ('the envisaged act').

The purpose of the envisaged act is to adopt two Regional Plans: a Regional Plan which will upgrade several aspects of the current Regional Plan on Urban Wastewater Treatment and a new Regional Plan on Sewage Sludge Management (both referred to hereafter as the 'Regional Plans').

[1] OJ L 322, 14.12.1999, p. 18–31.

The Regional Plans will be binding on the Union in accordance with Article 15(3) of the LBS Protocol.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The envisaged Regional Plan on Urban Wastewater Treatment substantively enhances over the previous Regional Plan on the Reduction of BOD5. In particular, Emission Limit Values ('ELVs') have been expanded to cover the most prominent pollutants discharged by treated wastewater, including reclaimed and industrial wastewater.

The proposed measures under the new Regional Plan for Sewage Sludge Management cover: the various uses of sewage sludge; limit values for pathogen contents and heavy metals in biosolids for agricultural use; aspects related to sludge use for energy/nutrient recovery; and monitoring of quality of sewage sludge from wastewater treatment plants.

A Union position is necessary because of the legally binding effects of the envisaged proposal.

The proposal is in line with the Union's ambition under the Green Deal to reduce pollution and improve protection of the environment. It is therefore proposed that the Union support the adoption of the envisaged act.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question.

4.1.2. Application to the present case

The Meeting of the Contracting Parties to the Barcelona Convention and its Protocols is a body set up by an agreement, namely the Barcelona Convention.

The envisaged act will adopt Regional Plans in the framework of Article 15 of the LBS Protocol on Urban Wastewater Treatment and Sewage Sludge Management, and therefore its adoption constitutes an act having legal effects.

The envisaged act does not supplement or amend the institutional framework of the Barcelona Convention and its Protocols.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely

incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to protection of the environment.

Therefore, the substantive legal basis of the proposed decision is 192(1) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be 192(1) TFEU, in conjunction with Article 218(9) TFEU.

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on the position to be taken on behalf of the European Union in the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention') on the Adoption of a Decision to adopt Regional Plans in the framework of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') on Urban Wastewater Treatment and Sewage Sludge Management

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The amended Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (the 'LBS Protocol') was concluded by the Union by Council Decision 1999/801/EC[2] and entered into force on 11 May 2008.

(2) Pursuant to Article 15 of the LBS Protocol, the Meeting of the Contracting Parties to the Barcelona Convention and its Protocols may adopt regional action plans containing measures and timetables for their implementation.

(3) During their 22nd meeting on 7-10 December 2021, the Contracting Parties to the Barcelona Convention and its Protocols are to adopt Regional Plans in the framework of Article 15 of the LBS Protocol on Urban Wastewater Treatment and Sewage Sludge Management.

(4) It is necessary to establish the position to be taken on the Union's behalf in the Meeting of the Contracting Parties to the Barcelona Convention and its Protocols, as the envisaged Decision will adopt Regional Plans which are binding on the Union according to Article 15(3) of the LBS Protocol.

(5) Since the purpose of the envisaged Regional Plans is to update requirements regarding protection of the Mediterranean Sea, modify the EU's international commitments and ambitions and improve protection of the environment, it is proposed that the Union support the adoption of the Decision.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the 22nd Meeting of the Contracting Parties to the Barcelona Convention and its Protocols shall be to support adoption of the Decision adopting Regional Plans in the framework of Article 15 of the Protocol for the Protection of

[2] OJ L 322, 14.12.1999, p. 18–31.

the Mediterranean Sea against Pollution from Land-Based Sources (the 'LBS Protocol') on Urban Wastewater Treatment and Sewage Sludge Management.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President