



Council of the
European Union

Brussels, 9 February 2023
(OR. en)

5523/23

LIMITE

JAI 63
FREMP 10
EDUC 26
MIGR 30
SOC 40
ASILE 11
ANTIDISCRIM 10
COCON 7
COHOM 17
COPEN 19
DROIPEN 12

Interinstitutional Files:
2016/0062(NLE)
2016/0063(NLE)

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement

COUNCIL DECISION 2023/...

of ...

**on the conclusion, on behalf of the European Union,
of the Council of Europe Convention on preventing and combating violence
against women and domestic violence with regard to matters related
to judicial cooperation in criminal matters, asylum and non-refoulement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(2), Article 84 and Article 78(2), in conjunction with Article 218(6), second subparagraph, point (a)(v), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ ... [Please insert OJ reference] or [Consent of [date] (not yet published in the Official Journal)].

Whereas:

- (1) The Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Convention') is the first international instrument aiming to eliminate violence against women, including girls under the age of 18, as a root cause of persisting inequality between men and women, by setting up a comprehensive framework of legal and policy measures to prevent violence against women and protect and assist victims of such violence. The Convention entered into force on 1 April 2014. In accordance with Article 75 of the Convention, the Union may become a Party to the Convention.
- (2) In accordance with Council Decisions (EU) 2017/865¹ and (EU) 2017/866², the Convention was signed on 13 June 2017 on behalf of the Union with regard to matters related to judicial cooperation in criminal matters and with regard to asylum and non-refoulement, subject to its conclusion at a later date.

¹ Council Decision (EU) 2017/865 of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters (OJ L 131, 20.5.2017, p. 11).

² Council Decision (EU) 2017/866 of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to asylum and non-refoulement (OJ L 131, 20.5.2017, p. 13).

- (3) The Convention creates a comprehensive and multifaceted legal framework to protect women against all forms of violence. It seeks to prevent, prosecute and eliminate violence against women and girls and domestic violence. It covers a broad range of measures, from data collection and awareness-raising to legal measures on criminalising different forms of violence against women. It includes measures for the protection of victims and the provision of support services, and addresses the gender based violence dimension in matters of asylum and migration. The Convention establishes a specific monitoring mechanism in order to ensure effective implementation of its provisions by the Parties.
- (4) The conclusion of the Convention on behalf of the Union will contribute to the realisation of equality between women and men in all areas, which is a core objective and value of the Union to be realised in all its activities in accordance with Articles 2 and 3 of the Treaty on European Union (TEU), Article 8 of the Treaty on the Functioning of the European Union (TFEU) and Article 23 of the Charter of Fundamental Rights of the European Union. Violence against women is not only a criminal offence but also a violation of their human rights and an extreme form of discrimination, entrenched in gender inequalities and contributing to maintaining and reinforcing them. By committing to the implementation of the Convention, the Union confirms its engagement in combating violence against women within its territory and globally, and reinforces its current political action and existing substantial legal framework in the area of criminal procedural law, which is of particular relevance for women and girls.

- (5) The Convention covers matters which fall within the exclusive competence of the Union and other matters which fall within the competence of the Member States.
- (6) The Union should accede to the Convention only as regards the matters falling within the exclusive competence of the Union, namely insofar as the relevant provisions of the Convention may affect common rules or alter their scope. This applies, in particular, to certain provisions of the Convention relating to judicial cooperation in criminal matters and to the provisions of the Convention relating to asylum and non-refoulement. The Member States retain their competence insofar as the Convention does not affect common rules or alter the scope thereof. The Union's accession to the Convention as regards matters falling within its exclusive competence is without prejudice to the Member States' competence as regards the ratification of the Convention, on matters falling within their national competences.
- (7) At the stage of implementation of the Convention, the Union will be responsible for the implementation of the provisions of the Convention falling within its exclusive competence, whereas the Member States that have ratified the Convention will have sole responsibility for the implementation of the provisions of the Convention falling within their national competence.

- (8) The legal bases referred to in this Decision constitute a relevant indication of the extent of the Union's competence with regard to the Convention, and to the division of competences between the Union and the Member States.
- (9) This Decision concerns only the provisions of the Convention on judicial cooperation in criminal matters and asylum and non-refoulement insofar as those provisions may affect common rules or alter their scope. It does not concern the institutions or public administration of the Union, which are addressed by a separate Council decision to be adopted in parallel with this Decision.
- (10) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (12) A Code of Conduct laying down the internal arrangements regarding the exercise of rights and obligations of the Union and Member States under the Convention ('Code of Conduct') has been drawn up between the Council, the Member States who are party to the Convention, and the Commission. These arrangements cover, inter alia, the Commission's role as coordinating body within the meaning of Article 10 of the Convention for matters falling under Union's exclusive competence, without prejudice to the respective competences of the Member States and the autonomy of the institutions of the Union in matters relating to their respective operations; the monitoring mechanism, including reporting to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO); the participation of the Union in meetings of the bodies created by the Convention, in particular the Committee of the Parties referred to in Article 67 of the Convention; the establishment of Union, common or coordinated positions for such meetings; and the close cooperation at such meetings, in particular as regards speaking and voting arrangements. The Code of Conduct is therefore intended as a practical and internal tool to enable the Union and its Member States to achieve coherent, comprehensive and unified external representation with regard to the Convention.
- (13) The Convention should be approved,

HAS ADOPTED THIS DECISION:

Article 1

1. The Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Convention') is hereby approved on behalf of the Union^{1*} with regard to matters related to judicial cooperation in criminal matters and to asylum and non-refoulement, insofar as they fall within the exclusive competence of the Union.
2. The Union's accession to the Convention shall be without prejudice to the Member States' competence as regards the ratification of the Convention on matters falling within their national competences.

Article 2

The President of the Council shall designate the person(s) empowered to deposit, on behalf of the Union, the instrument of approval provided for in Article 75(2) and (4) of the Convention.

¹ The text of the Convention is published in ... [insert OJ reference].

* Delegations/OJ: see document ST 14868/16 ADD 01 for Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish and document SN 1175/23 for Irish.

Article 3

The Commission shall act as the Union's coordinating body in accordance with Article 10 of the Convention and fulfil the reporting obligations under Chapter IX for matters of the Convention falling under exclusive Union competence, without prejudice to the competences of the Member States and the autonomy of the institutions of the Union in matters relating to their respective operations.

Article 4

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President
