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'A' ITEM NOTE

From: General Secretariat of the Council
To: Council

Subject: Proposal for a 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 institutions and public administration of the Union

Proposal for a 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,

- *Agreement in principle*
- *Request for the consent of the European Parliament*

= *Statements*

The following statements will be entered in the Council minutes.

Statement by the delegation of Bulgaria

Bulgaria is strongly committed to combatting domestic violence and violence against women. The Bulgarian government and civil society are actively engaged in preventing such forms of violence and in providing protection and support to their victims.

In 2018, the Constitutional Court of the Republic of Bulgaria adopted a decision stating that the Istanbul Convention promotes legal concepts related to the notion of “gender” that are incompatible with main principles of the Bulgarian Constitution.

Therefore Bulgaria cannot agree with the two proposed draft Council decisions and with the recommendation to seek the consent of the European Parliament on those decisions on EU accession to the Istanbul Convention.

Bulgaria reiterates its strong position against EU accession to the Istanbul Convention in the absence of common accord among Member States. We believe that such an approach would lead to legal challenges for the EU and for the EU Member States in the process of implementation of the Convention. Furthermore, Bulgaria is under no obligation to report to the GREVIO expert group concerning the implementation of the Istanbul Convention on its territory, nor agrees to have third parties report on its behalf.

Last but not least, the time is not ripe for the proposed EU accession to the Istanbul Convention. We are currently negotiating an internal EU instrument in the same area, namely a Directive on domestic violence and violence against women. We should finalise our internal rules, establish EU competence in the matter first and then seek compatibility with the Council of Europe instrument.

Statements by the delegations of Cyprus, France, Germany, Greece, Ireland, Malta, Slovenia and Spain

Having regard to Opinion 1/19, Cyprus, France, Germany, Greece, Ireland, Malta, Slovenia and Spain remain firmly attached to the practice of « common accord » for the accession by the European Union to mixed agreements exercised in full compliance with the requirements and within the limits of the procedure laid down in Article 218(2), (6) and (8) TFEU. However, considering the specific circumstances with respect to the consensus in favour of the fight against violence against women, Cyprus, France, Germany, Greece, Ireland, Malta, Slovenia and Spain agree with the accession of the EU to the Istanbul Convention.

Statement by the delegation of Hungary

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. Furthermore, equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. Hungary is also committed to fighting against violence against women. Hungary remains convinced that it is not the ratification of a convention, but the tangible results of Government actions that make prevention and combating violence against women and domestic violence a reality.

The National Assembly of Hungary has adopted a resolution in May 2020 proclaiming that it opposes the ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence by Hungary because it wishes to avoid including the definition of ‘gender’ or the corresponding perspective of the Convention into the Hungarian legal system, and also because the provisions of the Convention on granting asylum on the grounds of sex/gender are contrary to the political aims of Hungary in this respect and to the Hungarian legal framework supporting that aim.

The above referred resolution of the National Assembly called on the Hungarian Government not to support the accession of the European Union to the Istanbul Convention and therefore Hungary is not in a position to support the accession of the European Union to that Convention. The Hungarian Government considers that in the present case the competences of the Member States and of the Union are inextricably linked. Therefore, the European Union should not accede to the Convention before all its Member States have ratified the Convention at national level.

Hungary stresses that the abandonment of the practice of ‘common accord’ would have consequences that go well beyond the accession to the Istanbul Convention. Hungary recalls that the Opinion of the Court of Justice of the European Union did not exclude the possibility of waiting for the ‘common accord’ of the Member States. Hungary stresses that abandoning the practice of common accord will adversely affect the Union's ability to meet its international commitments and will weaken political ownership, which has always been an important consideration in the decision-making process regarding EU external relations.
