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'A' ITEM NOTE

From: Permanent Representatives Committee (Part 2)
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*

1. On 4 March 2016, the Commission presented to the Council two proposals for Council decisions: the first 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 (Istanbul Convention)¹ and the second one, on the conclusion, by the European Union of that Convention².

¹ 6695/16, 6695/16 ADD 1

² 6696/16, 6696/16 ADD 1

2. These proposals were examined in the Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP WP). The decision on signature was split in two in order to take into account of the variable geometry as regards the area of freedom, security and justice.
3. On 11 May 2017, the Council adopted the 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 matters³ and the 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-refoulement⁴. The signature of the Convention by the EU took place on 13 June 2017.
4. On 9 July 2019, the European Parliament made a request to the Court of Justice for an opinion pursuant to Article 218(11) TFEU. The discussions in the FREMP WP on the draft Council Decisions on the conclusion of the Istanbul Convention were suspended while the court proceedings were ongoing.
5. On 6 October 2021, the Court of Justice (Grand Chamber) rendered Opinion 1/19. The analysis of that Opinion is set out in the Council Legal Service Information Note to Coreper of 11 November 2021⁵.
6. The discussion then resumed in the FREMP WP, and on 20 July 2022 an agreement was reached on the text of the two draft Council Decisions on conclusion, as amended in light of Opinion 1/19. The texts, as revised by the lawyer-linguists, are set out in doc. 5514/23 and 5514/23 COR 1 and doc. 5523/1/23 REV 1.

³ OJ L 131, 20.5.2017, p. 11-12

⁴ OJ L 131, 20.5.2017, p. 13-14

⁵ 13800/21

7. In addition, the FREMP WP finalised the work on the Code of Conduct laying down the internal arrangements regarding the exercise of rights and obligations of the European Union and Member States under the Istanbul Convention. The text of the Code of Conduct can be found in doc. 6087/23. This WP also agreed on the text of a draft declaration concerning the European Union's competence with regard to matters governed by the Istanbul Convention. The text of this Declaration is set out in doc. 6088/23. Those documents will be submitted to the approval of the Council at a later stage, when it will decide on the final adoption of the Decisions on the Conclusion, following receipt of the consent of the European Parliament.

8. At its meeting on 15 February 2023, the Permanent Representatives Committee (Part II) examined the text of the draft Council Decisions on the conclusion by the EU of the Istanbul Convention set out in doc. 5514/23 and 5514/COR 1 and doc. 5523/1/23 REV 1 and agreed to recommend the Council to confirm its agreement in principle on the text of those decisions. The Permanent Representatives Committee also agreed to recommend that the Council seek the consent of the European Parliament on those draft Decisions. At this meeting, the Bulgarian, Hungarian, Polish and Slovak delegations expressed that they could not support the text of the Council decisions. The statements to be included in the Council minutes made by the Bulgarian, Hungarian and Irish delegations as well as the joint statement by Cypriot, French, German, Greek, Irish, Maltese, Slovenian and Spanish delegations can be found in the addendum 6315/23 ADD 1 REV 2 to this Note.

9. The Council is therefore invited to confirm the agreement in principle on the two draft Council Decisions on the conclusion by the EU of the Istanbul Convention as set out in doc. 5514/23 and 5514/COR 1 and doc. 5523/1/23 REV 1, as well as to seek the consent of the European Parliament on these two draft Council Decisions.