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LIMITE

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**Interinstitutional File:
2020/0011(NLE)**

NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Proposal for a COUNCIL DECISION authorising Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organisation - Guidance for further work

I. INTRODUCTION

1. On 21 June 2019, at its 108th (centenary) session, the International Labour Conference adopted Convention 190 concerning the Elimination of Violence and Harassment in the World of Work¹ ('ILO Convention 190'), accompanied by Recommendation 206². ILO Convention 190 is the first international instrument setting out specific, globally applicable standards on tackling work-related violence and harassment. All Member States supported the adoption of this Convention.

¹ Convention C190 - Violence and Harassment Convention, 2019 (No. 190) (ilo.org)

² Recommendation R206 - Violence and Harassment Recommendation, 2019 (No. 206) (ilo.org)

2. On 22 January 2020, the European Commission tabled a proposal for a ‘Council Decision authorising Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization’³.

II. WORK AT THE COUNCIL

3. The proposal was discussed at three Social Questions Working Party meetings under the Croatian Presidency⁴, where delegations welcomed the Commission’s proposal and expressed their support for the Convention's objectives to tackle violence and harassment in the world of work. However, a number of delegations raised questions regarding the Union’s competences in the areas covered by the Convention, the necessity for a Council Decision and the resulting obligation for Member States to ratify the ILO Convention 190. Further to these discussions, the text was revised to clarify the legal basis and the question of competences, with a view to reaching a general approach in March 2020.
4. The Committee of Permanent Representatives (‘Coreper I’) discussed the file on three occasions⁵ and reflected on possible ways forward. On 18 December 2020, Coreper I requested the written opinion of the Council Legal Service on the question of Union competences for the ratification of the ILO Convention 190.
5. The Portuguese and Slovenian Presidencies deemed advisable to wait for the Opinion of the Legal Service and the Opinion of the Court of Justice on the conclusion of the Council of Europe Convention on preventing and combating violence against women and domestic violence (‘the Opinion on the Istanbul Convention’) before taking a decision on the next steps.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0024>

⁴ Social Questions Working Party meetings on 04/02/20, 18/02/20 and 20/03/20.

⁵ Coreper I meetings on 11/03/20 (ST6771/20), 09/12/20 (ST13993/20) and 18/12/20.

6. On 20 January 2022, the Council Legal Service delivered its Opinion⁶ and, taking into consideration the recent developments on the case-law of the Court of Justice, including the Opinion on the Istanbul Convention⁷, identified different legal avenues for the way forward.
7. The Council Legal Service presented its Opinion to delegations on 1 February 2022 in an informal meeting of the Members of the Social Questions Working Party.
8. The Social Questions Working Party on 31 January 2023 discussed the way forward, taking into consideration the Opinion of the Council Legal Service. The Commission had the opportunity to present its position on the Council Legal Service's written opinion. Some delegations entered scrutiny reservations, considering the additional information provided by the Commission. Several delegations expressed their intention to ratify the ILO Convention 190 as soon as possible, while others do not wish to block others from doing so. Nevertheless, the majority of delegations could not support a Council Decision entailing an obligation to ratify the Convention.
9. A political exchange of views on the ILO Convention 190 will be held for the first time at the Council (EPSCO) on 13 March 2023. The Presidency will take into account this exchange in the further handling of the file.

⁶ Doc. 13484/21

⁷ Opinion of the Court of 6 October 2021, *Istanbul Convention*, 1/19, EU:C:2021:832.

III. CONCLUSION

10. In light of the above, the Committee of Permanent Representatives is invited to assess the current situation and provide guidance for the way forward by expressing its views on the following questions:
- a) Should the Council adopt a Decision authorising Member States to ratify the ILO Convention 190 in the interest of the EU? If yes, should the Decision cover the whole Convention or only parts of the Convention on the basis of the Commission proposal as revised under the Croatian Presidency⁸? In the latter case, should the Council proceed to the adoption despite certain delegations not supporting the Decision?
 - b) If a Council Decision could not gather the required qualified majority with a view to an adoption, how would delegations envisage possible ways forward?

⁸ Doc. 6771/20