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**Interinstitutional File:
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REV 1

LIMITE

**SOC 228
EMPL 161
SAN 175
GENDER 36
ANTIDISCRIM 29
FREMP 98
ILO 3**

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 Organization - Guidance for further work

I. INTRODUCTION

1. The ILO Convention 190 concerning the Elimination of Violence and Harassment in the World of Work ('ILO Convention 190'),¹ was adopted on 21 June 2019 by the International Labour Conference. It is the first international instrument setting out specific, globally applicable standards on tackling work-related violence and harassment. All EU Member States supported the objectives of this Convention and played a key role for its adoption.

¹ [Convention C190 - Violence and Harassment Convention, 2019 \(No. 190\) \(ilo.org\)](#)
[accompanied by the 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’².

II. WORK AT THE COUNCIL

3. The proposal was discussed at several Working Party meetings, where delegations welcomed the Commission’s proposal. However, a number of delegations raised questions regarding the Union’s competences in the areas covered by the Convention.
4. The Committee of Permanent Representatives (‘Coreper I’) discussed the file on three occasions³ 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 Opinion⁴ of the Council Legal Service identified different avenues for the way forward, while taking into consideration the recent developments on the case-law of the Court of Justice, including the Opinion on the Istanbul Convention⁵.
6. In March 2023, Coreper I discussed the way forward and prepared an exchange of views on the ILO Convention 190 at the Council (EPSCO). On 13 March, the Ministers supported the general aim of the Convention and called for a quick solution which would allow Member States to ratify Convention 190.
7. The Presidency, taking into account the guidance provided, has worked on a revised text for a Council Decision, which is annexed to this Note.
8. Pursuant to the revised text, it is appropriate for the Union to exercise its competence regarding parts of the Convention concerning the improvement of the working environment to protect workers’ health and safety and equality between men and women in matters of employment and occupation, to the extent that it has adopted rules thereof.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0024>

³ Coreper I meetings on 11/03/20 (ST6771/20), 09/12/20 (ST13993/20) and 18/12/20

⁴ Doc. 13484/21

⁵ Opinion of the Court of 6 October 2021, *Istanbul Convention*, 1/19, EU:C:2021:832.

9. The new text also clarifies that the Union cannot ratify the Convention, as only States can be parties thereto, and that in this situation the Union external competence may be exercised only through the intermediary of the Member States, acting jointly in the interest of the Union.
10. Article 2 of the initial proposal is removed.
11. During the EPSCO meeting of 13 March 2023, the Commission reiterated its assessment on the possible ways forward, and its willingness to commit not to change its current practice concerning the exercise of its discretion for what concerns the non-ratification of ILO instruments by Member States.

III. CONCLUSION

12. In light of the above and based to the Presidency compromise text as set in the Annex to this note, the Committee of Permanent Representatives is invited to:
 - a) check whether the required qualified majority can be reached for the adoption of a general approach on the proposed Council Decision to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization;
 - b) in this light, recommend to the Council to:
 - i) either adopt a general approach on the proposed Council Decision to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization;
 - ii) or to approve a statement to be entered into its minutes whereby the Council notes that the required qualified majority cannot be reached for the adoption of the proposed Council Decision to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization.

*Changes compared to the initial Commission Proposal (ST 5442/20) are marked in **bold underlined** and deletions are marked with [...].*

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153 (2) in conjunction with point (a) [...] of Article 153 (1), Article 157(3) and 218(6) (a) (v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In 2019, in its 108th session the International Labour Conference adopted the International Labour Organization's Convention concerning the elimination on violence and harassment in the world of work, which may be cited as the Violence and Harassment Convention, 2019 (No. 190), ("the Convention").
- (2) The Union promotes the ratification of international labour conventions that have been classified by the International Labour Organization as up to date in order to promote decent work for all, health and safety at work and gender equality as well as to combat discrimination.
- (3) **The Convention falls within the shared competence of the Union. Both the existing relevant Union rules and the provisions of the Convention set minimum requirements. The Convention does not risk affecting existing Union rules or alter their scope.**

- (4) It is considered appropriate for the Union to exercise its competence regarding those parts of the Convention that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation, to the extent that the Union has adopted rules thereof.
- (5) The Union cannot ratify the Convention, as only States can be parties thereto.
- (6) In this situation, the Union external competence may be exercised through the intermediary of the Member States, acting jointly in the interest of the Union.
- (7) Therefore, Member States should be authorised to ratify, those parts of the Convention that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation, to the extent that the Union has adopted rules thereof, in accordance with the applicable national and constitutional procedures/practices and Article 19(5) of the ILO Constitution.

HAS ADOPTED THIS DECISION:

Article 1

Member States are authorised to ratify, for the parts that specifically concern the improvement of the working environment to protect workers' health and safety and equality between men and women in matters of employment and occupation under [...] Article 153 (2), 153 (1) (a) and [...] 157 (3) TFEU, the Violence and Harassment Convention, 2019 (No.190) of the International Labour Organization.

Article 2

[...]

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*