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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating violence against women and domestic violence (first reading) - Adoption of the legislative act = Statements

Statement by Austria, Croatia, Cyprus, Finland, Greece, Italy, Latvia, Luxembourg, Poland, Romania, Slovenia, Spain and Sweden

We welcome the agreement on the Directive on combating violence against women and domestic violence and wish to declare the following.

According to the Fundamental Rights Agency (FRA), 1 in 20 women in the EU over the age of 15 have been raped. Non-consensual sex is an extremely serious violation of individuals' sexual integrity and must be prevented and combated with full force at all levels, including at EU level. Austria, Croatia, Cyprus, Finland, Greece, Italy, Latvia, Luxembourg, Poland, Romania, Slovenia, Spain and Sweden therefore regret that the Directive does not include the criminal offence of rape based on the lack of consent. The fact that the Directive contains requirements for education in terms of consent is, however, a step in the right direction.

Nevertheless, even without a consent-based provision on rape, it has been of utmost importance for us to ensure that the Directive is adopted as soon as possible, as it contains other crucial elements. No specific legal instrument has up until now addressed violence against women and domestic violence at EU level. This Directive is therefore a milestone for international standards in this field. The Directive provides much-needed comprehensive responses, incorporating prevention, protection, support for victims and prosecution for a range of criminal offences which constitute violence against women and domestic violence.

We are convinced that this Directive will provide a forceful contribution to the safety and security of women all across the EU.

Statement by Bulgaria

The Republic of Bulgaria attaches great importance to the promotion and protection of fundamental rights, an important part of which is the equality between women and men. We are and will remain dedicated to the principles and values of the European Union as enshrined in the Treaties.

The Republic of 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. We consider the proposal for a directive of the European Parliament and of the Council on combating violence against women and domestic violence (hereinafter “the Directive”) as important milestone in combating violence against women and girls, protecting victims and punishing offenders that will support the EU Member State to advance their national legislation.

However, in 2018, the Constitutional Court of the Republic of Bulgaria adopted a decision stating that the Council of Europe’s Convention on Preventing and Combatting Violence against Women and Domestic Violence (“Istanbul Convention”) promotes legal concepts that intend to differentiate between “sex” as a biological (women and men) category and “gender” as a social construct. In 2021, the Constitutional Court adopted another decision clarifying that the notion “sex” used in the Constitution could only be regarded in the sense of its biological determination.

In light of the abovementioned decisions, the Republic of Bulgaria declares that the term “gender” used in the Directive and any of its derivative terms are understood as encompassing only the male and female sex in their biological meaning. The Republic of Bulgaria also declares that it does not accept the concept of “gender” and the “gender-based” approach, as defined in the Istanbul Convention.

Lastly, the Republic of Bulgaria will only accept the translation in Bulgarian of the term “gender” as “пол” in the text of the Directive.

Statement by Hungary

Hungary recognises 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 international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets the concept of ‘gender’ as reference to ‘sex’ and the concept of ‘gender equality’ as ‘providing equal chances and opportunities for women and men’ in the *Directive combating violence against women and domestic violence*.

Statement by Slovakia

Slovak Republic welcomes a compromise reached with the European Parliament on the Directive on combating violence against women and domestic violence. In our view, this is an important step forward in the common fight against violence against women. In this context, Slovak Republic wishes to recall its position that the term “gender” within this directive shall be translated as “sex”, particularly within definitions of victims, in line with national legislation in the fields of criminal law, victims’ rights and discrimination. In cases where context demands the use of the Slovak equivalent for “gender” the appropriate translation shall be used, such as in terms “gender roles”, “gender stereotypes”, “gender equality” or “gender-based violence”.