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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Draft COUNCIL DECISION 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-refoulement

DRAFT

COUNCIL DECISION (EU) 2017/...

of ...

**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-refoulement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union participated alongside the Member States as an observer in the negotiation of the Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Convention'), which was adopted by the Council of Europe Committee of Ministers on 7 April 2011. The Convention was opened for signature on 11 May 2011.
- (2) In accordance with Article 75 of the Convention, the Convention is open for signature by the Union.
- (3) The Convention creates a comprehensive and multifaceted legal framework to protect women against all forms of violence. It seeks to prevent, prosecute and eliminate violence against women and girls and domestic violence. It covers a broad range of measures, from data collection and awareness-raising to legal measures on criminalising different forms of violence against women. It includes measures for the protection of victims and the provision of support services, and addresses the gender-based violence dimension in matters of asylum and migration. The Convention establishes a specific monitoring mechanism in order to ensure effective implementation of its provisions by the Parties.

- (4) The signing of the Convention on behalf of the Union will contribute to the realisation of equality between women and men in all areas, which is a core objective and value of the Union to be realised in all its activities in accordance with Articles 2 and 3 of the Treaty on European Union (TEU), Article 8 of the Treaty on the Functioning of the European Union (TFEU) and Article 23 of the Charter of Fundamental Rights of the European Union. Violence against women is a violation of their human rights and an extreme form of discrimination, entrenched in gender inequalities and contributing to maintaining and reinforcing them. By committing to the implementation of the Convention, the Union confirms its engagement in combating violence against women within its territory and globally, and reinforces its current political action and existing substantial legal framework in the area of criminal procedural law, which is of particular relevance for women and girls.
- (5) Both the Union and its Member States have competence in the fields covered by the Convention.

- (6) The Convention should be signed on behalf of the Union as regards matters falling within the competence of the Union insofar as the Convention may affect common rules or alter their scope. This applies, in particular, to certain provisions of the Convention relating to judicial cooperation in criminal matters and to the provisions of the Convention relating to asylum and non-refoulement. The Member States retain their competence insofar as the Convention does not affect common rules or alter the scope thereof.
- (7) The Union also has exclusive competence to accept the obligations set out in the Convention with respect to its own institutions and public administration.
- (8) Since the competence of the Union and the competences of the Member States are interlinked, the Union should become a Party to the Convention alongside its Member States, so that together they can fulfil the obligations laid down by the Convention and exercise the rights vested in them in a coherent manner.

- (9) This Decision concerns only Articles 60 and 61 of the Convention. It does not concern the provisions of the Convention on judicial cooperation in criminal matters, which are addressed by a separate Council decision on signing to be adopted in parallel with this Decision.
- (10) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (12) The Convention should be signed,

HAS ADOPTED THIS DECISION:

Article 1

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-refoulement is hereby authorised, subject to the conclusion of the said Convention.¹⁺

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Convention on behalf of the Union.

Article 3

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at ...

For the Council

The President

¹ The text of the Convention will be published together with the decision on its conclusion.

⁺ Delegations: see document st06695/16 ADD1.