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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Committee of Ministers of the Council of Europe on the extension of the term for accession of Tunisia to 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

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EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf at the meeting of the Committee of Ministers of the Council of Europe on 23 April 2025, in connection with the envisaged adoption of a decision granting Tunisia an extension of the term for accession to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence ('Istanbul Convention' or 'Convention), until 23 April 2027

1.1. The Istanbul Convention

The Istanbul Convention establishes a comprehensive and harmonised set of rules to prevent and combat violence against women and domestic violence in Europe and beyond. The Convention entered into force on 1 August 2014.

The EU signed the Convention in June 2017, and completed the accession procedure on 28 June 2023, triggering the entry into force of the Convention for the EU on 1 October 2023. The EU has acceded to the Convention as regards matters falling within its exclusive competence, namely matters related to institutions and public administration of the Union¹ and matters related to judicial cooperation in criminal matters, asylum and non-refoulement². As regards the latter, Ireland and Denmark are not bound by the exercise of the Union's competence³. There are currently 39 Parties to the Convention, including the EU and 22 EU Member States⁴.

1.2. The Committee of Ministers of the Council of Europe

The Committee of Ministers (CM) is the Council of Europe's (CoE) decision-making body. The CM is composed of the Ministers for Foreign Affairs of the 46 Member States of the CoE with their Permanent Representatives in Strasburg acting as Deputies. The role and functions of the CM are described in Chapter IV of the Statute of the CoE ('the Statute')⁵. Pursuant to Article 14 of the Statute, each member of the CoE shall be entitled to one representative on the CM, and each representative shall be entitled to one vote. All EU Member States are members of the CoE and thus represented in the CM. The CM meets at ministerial level once a year and at Deputies' level weekly.

¹ Council Decision (EU) 2023/1075 of 1 June 2023 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, OJ L 143 I, 2.6.2023, p. 1–3.

² Council Decision (EU) 2023/1076 of 1 June 2023 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, OJ L 143 I, 2.6.2023, p. 4–6.

³ In accordance with Protocols No 21 and No 22 annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

⁴ Status of ratifications on 25.03.2025: AT (2013); BE (2016); CY (2017); DE (2017); DK (2014); IE (2019); EL (2018); ES (2014); EE (2017) FI (2015); FR (2014); HR (2018); IT (2013); LU (2018); MT (2014); NL (2015); PL (2015); PT (2013); RO (2016); SI (2015); SV (2014); LV (2024).

⁵ Statute of the Council of Europe (ETS No. 001), [Full list - Treaty Office](#).

1.3. The envisaged decision of the Committee of Ministers of the Council of Europe

Article 75(1) of the Istanbul Convention provides that the Convention is open for accession by CoE Member States, the non-CoE Member States which participated in its elaboration and the EU. Article 76(1) further provides that the Convention is open for accession also by non-member States which did not participate in its elaboration, provided that they have been formally invited to accede by the CM. In this regard the CM may, after consultation of the Parties to the Istanbul Convention and obtaining their unanimous consent, invite any non-CoE Member State to accede to the Convention by a decision taken by the majority provided for in Article 20.d of the Statute (two-thirds majority of the CM) and by unanimous vote of the representatives of the Parties to the Convention entitled to sit on the Committee of Ministers⁶.

On 22 April 2020, the CM decided to invite Tunisia to accede to the Istanbul Convention. In accordance with the decision, this invitation is valid for five years from its adoption, i.e., until 23 April 2025.

By a letter dated 20 February 2025, Tunisia requested an extension of its term for accession to the Convention until 23 April 2027, to be able to complete its internal processes. Member States of the CoE and Parties to the Istanbul Convention were informed by a letter dated 3 March 2025 of the request and that it requires a new decision by the CM. The CM's Rapporteur Group on Legal Co-operation (GR-J) is expected to examine the request at its meeting on 17 April 2025, whereafter the CM is expected to adopt a decision to extend the term for accession of Tunisia to the Istanbul Convention until 23 April 2027, as requested ('the envisaged decision').

2. POSITION TO BE TAKEN ON THE UNION'S BEHALF

It is proposed that the position to be taken on behalf of the EU at the meeting of the Committee of Ministers on 23 April 2025, shall be to support the extension of the term for accession of Tunisia to the Istanbul Convention until 23 April 2027 to give Tunisia the necessary time to complete its internal processes. The accession of Tunisia would be beneficial for the Union since it would extend the Convention's ambitious standards to combat violence against women and domestic violence to that country.

3. LEGAL BASIS

3.1. Procedural legal basis

3.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.*'

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement⁷.

⁶ For further information on the procedure for the accession by States which are not member States of the Council of Europe and which have not participated in the elaboration of the Convention see: [CETS 210 - Council of Europe Convention on preventing and combating violence against women and domestic violence - Modalities for accession](#).

⁷ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraph 64.

The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. The notion of ‘acts having legal effects’ further includes acts of an organisational nature that influence the way in which decisions are made within the body, for instance if a body with decision-making powers accepts a new country as a member.

3.1.2. *Application to the present case*

The CM is a body set up by an agreement, namely the Statute. The decision to extend the term for accession of Tunisia to the Istanbul Convention, which the CM is called upon to adopt, constitutes an act having legal effects. The extension of the deadline to accede to the Convention amounts to a “renewal” of the invitation until 23 April 2027, which would otherwise expire on 23 April 2025. If the deadline is extended, and if Tunisia accedes to the Convention within the timeframe, treaty relations will be established between the EU and Tunisia in the framework of the Istanbul Convention. The decision taken by the CM may also have legal effects on the Union because Tunisia’s accession would influence the way in which decisions are made within the Committee of the Parties of the Istanbul Convention. The envisaged act does not supplement or amend the institutional framework of the Agreement. Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

3.2. **Substantive legal basis**

3.2.1. *Principles*

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union’s behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(9) TFEU will have to include, exceptionally, the various corresponding legal bases.

3.2.2. *Application to the present case*

As regards the substantive legal basis, the EU has acceded to the Istanbul Convention as regards matters falling within its exclusive competence, namely with regard to matters related to institutions and public administration of the Union⁸ and with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement⁹. The EU’s accession to the Istanbul Convention was split into two separate Council decisions to take into account the special position of Denmark and Ireland with respect to Title V of the TFEU. Consequently, also the decision establishing the position to be taken on the Union’s behalf in the CM is to be split into two parallel decisions, as the Treaty relationship with Tunisia would be established

⁸ Council Decision (EU) 2023/1075 of 1 June 2023 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 (OJ L 143 I, 2.6.2023, p. 1, ELI: <http://data.europa.eu/eli/dec/2023/1075/oj>).

⁹ Council Decision (EU) 2023/1076 of 1 June 2023 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 (OJ L 143 I, 2.6.2023, p. 4, ELI: <http://data.europa.eu/eli/dec/2023/1076/oj>).

for all aspects of the Convention. The legal basis for the present decision concerns matters related to judicial cooperation in criminal matters, asylum and non-refoulement. Therefore, the substantive legal basis of the proposed decision comprises the following provisions: Article 78(2), Article 82(2) and Article 84 TFEU.

3.3. Conclusion

The legal basis of the proposed decision should be Article 78(2), Article 82(2) and Article 84, in conjunction with Article 218(9) TFEU.

Proposal for a

COUNCIL DECISION**on the position to be taken on behalf of the European Union within the Committee of Ministers of the Council of Europe on the extension of the term for accession of Tunisia to 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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), Article 82(2) and Article 84, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Istanbul Convention' or 'the Convention') was concluded by the Union by Council Decision (EU) 2023/1075¹⁰ with regard to institutions and public administration of the Union, and by Council Decision (EU) 2023/1076¹¹ with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement, and entered into force for the Union on 1 October 2023. There are currently 39 Parties to the Convention, including the EU and 22 EU Member States.
- (2) The Committee of Ministers of the Council of Europe ('the Committee of Ministers') is the Council of Europe's decision-making body. It is composed of the Ministers for Foreign Affairs of the 46 Member States of the Council of Europe and their Permanent Representatives in Strasburg acting as Deputies. The role and functions of the Committee of Ministers are described in Chapter IV of the Statute of the Council of Europe¹². Pursuant to Article 14 of the Statute, each member of the Council of Europe shall be entitled to one representative on the Committee of Ministers, and each representative shall be entitled to one vote. All EU Member States are members of the Council of Europe and thus represented in the Committee of Ministers.
- (3) Pursuant to Article 76(1) of the Istanbul Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to the Istanbul Convention and obtaining their unanimous consent, invite a non-Council of Europe Member State

¹⁰ Council Decision (EU) 2023/1075 of 1 June 2023 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 (OJ L 143 I, 2.6.2023, p. 1, ELI: <http://data.europa.eu/eli/dec/2023/1075/oj>).

¹¹ Council Decision (EU) 2023/1076 of 1 June 2023 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 (OJ L 143 I, 2.6.2023, p. 4, ELI: <http://data.europa.eu/eli/dec/2023/1076/oj>).

¹² Statute of the Council of Europe (ETS No. 001), [Full list - Treaty Office](#).

to accede to the Istanbul Convention. Such decision requires the majority provided for in Article 20.d of the Statute (two-thirds majority of the Committee of Ministers) and the unanimous vote of the representatives of the Parties to the Convention entitled to sit on the Committee of Ministers.

- (4) On 22 April 2020, the Committee of Ministers decided to invite Tunisia to accede to the Istanbul Convention. In conformity with the decision, the invitation was valid five years as from its adoption, i.e., until 23 April 2025.
- (5) By a letter dated 20 February 2025, Tunisia requested an extension of the term for accession of Tunisia to the Istanbul Convention until 23 April 2027, to be able to complete its internal processes.
- (6) The Committee of Ministers, at its meeting on 23 April 2025, is expected to adopt a decision on the extension of the term for accession of Tunisia to the Istanbul Convention until 23 April 2027.
- (7) It is appropriate to establish the position to be taken on the Union's behalf within the Committee of Ministers, as the extension of the term for accession of Tunisia to the Istanbul Convention may have legal effects on the Union. The extension renews the invitation to Tunisia to accede and therefore may imply the establishment of treaty relations between the Union and Tunisia in the framework of the Istanbul Convention. The decision may also influence the way in which decisions are made within the Committee of the Parties of the Istanbul Convention.
- (8) The accession of Tunisia would be beneficial for the Union since it would extend the Convention's ambitious standards to that country. The Union's position should therefore be to grant Tunisia two more years to complete its internal procedures.
- (9) As the Union is not a member of the Council of Europe but all Member States are, the Union's position is to be expressed by the Member States of the Union, acting jointly.
- (10) Ireland is not bound by Council Decision (EU) 2023/1076 and is therefore not taking part in the adoption of this Decision.
- (11) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the meeting of the Committee of Ministers of the Council of Europe on 23 April 2025, shall be to support the extension of the term for accession of Tunisia to the Istanbul Convention until 23 April 2027.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Committee of Ministers of the Council of Europe, acting jointly.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*