Resolution seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposals for the accession by the European Union to the Council of Europe Convention on preventing and combating violence against women and domestic violence and on the procedure for that accession

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The European Parliament adopted a resolution seeking an opinion from the Court of Justice on the compatibility with the Treaties of the proposals for the accession by the European Union to the Council of Europe Convention on preventing and combating violence against women and domestic violence and on the procedure for that accession.

The resolution was tabled by the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality.

Parliament considered that there is legal uncertainty as to whether the accession to the Istanbul Convention as proposed by the Council is compatible with the Treaties, in particular as regards the choice of the appropriate legal basis for the decisions on the signing and on the conclusion by the European Union of the convention, and as regards the possible split into two decisions on the signing and on the conclusion of the convention as a consequence of that choice of legal basis.

According to Parliament, there is also legal uncertainty (i) as regards the compatibility with the Treaties of the practice of a ‘common accord’ by the Council in its decision-making, which is applied in addition to or alternatively to the relevant decision-making procedure in the Treaties, and, in this context, (ii) as regards the application of the principle of sincere cooperation in the light of the expressed objective of the Union to conclude the Istanbul Convention.

Therefore, Parliament decided to seek an opinion from the Court of Justice on the compatibility with the Treaties of the proposed accession of the EU to the Istanbul Convention and the procedure for that accession.

Article 218(11) of the TFEU, on the basis of standing case-law of the Court of Justice, allows the Court to rule both on the compatibility of the agreement with the Treaties and on issues of competence and procedure for the conclusion of the agreement by the Union.

The Istanbul Convention is based on a holistic, comprehensive and coordinated approach that places the rights of the victim at the centre. It addresses the issues of violence against women and girls and gender-based violence, including domestic violence, from a wide range of perspectives. It provides for measures such as the prevention of violence, the fight against discrimination, criminal law measures to combat impunity, victim protection and support, the protection of children, the protection of women asylum seekers and refugees, and better data collection and awareness-raising campaigns and programmes.