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Proposal for a

COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the EU-Armenia
Partnership Council**

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the EU-Armenia Partnership Council in connection with the envisaged adoption of the recommendation on the Partnership Agenda between the European Union and Armenia.

2. CONTEXT OF THE PROPOSAL

2.1. The Comprehensive and Enhanced Partnership Agreement

The Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part ('the Agreement'), aims to enhance the comprehensive political and economic partnership and cooperation between the Parties based on common values and close links. The Agreement entered into force on 1 March 2021.

2.2. The Partnership Council

The Partnership Council was established in Article 362 of the Agreement. It supervises and regularly reviews the implementation of the Agreement. It consists of members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the government of the Republic of Armenia, on the other.

2.3. The envisaged act of the Partnership Council

The Partnership Council is to adopt a recommendation on the EU-Armenia Partnership Agenda ('the envisaged act').

The purpose of the envisaged act is to support the implementation of the Agreement by setting out joint priorities for EU-Armenia cooperation.

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

The EU-Armenia Partnership Agenda will replace the existing EU-Armenia Partnership Priorities. The EU and Armenia have agreed to consolidate their partnership and raise their cooperation to a new level of ambition, building on the EU-Armenia Comprehensive and Enhanced Partnership Agreement, by setting updated priorities in a Partnership Agenda.

The Partnership Agenda sets out concrete objectives for EU-Armenia cooperation, divided into short-term (3-4 years) and medium-term (7 years) priorities. The priority actions will focus on promoting economic development and diversification, enhancing regulatory alignment, and strengthening Armenia's resilience across all sectors. They range from democracy and human rights, internal security, trade, economic and broad sectoral cooperation to mobility and people-to-people contacts. Importantly, the Partnership Agenda also covers security and defence, expanding the existing scope of EU-Armenia cooperation.

The Union needs to establish its position on the Partnership Agenda to facilitate the full implementation of the Agreement and guide bilateral cooperation.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. 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.*’

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. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’¹.

4.1.2. Application to the present case

The Partnership Council is a body set up by an agreement, namely the Comprehensive and Enhanced Partnership Agreement.

The act which the Partnership Council is called upon to adopt constitutes an act having legal effects. The envisaged act has legal effects because the EU-Armenia Partnership Agenda will be the basis for the programming of EU assistance, including under the Neighbourhood, Development and International Cooperation Instrument – Global Europe, established by Regulation (EU) 2021/947 of the European Parliament and of the Council.

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.

4.2. Substantive legal basis

4.2.1. 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 must include, exceptionally, the various corresponding legal bases.

4.2.2. Application to the present case

The main objective and the content of the envisaged act relate to association with third countries, in particular to furthering the implementation of the aims and objectives of the Comprehensive and Enhanced Partnership Agreement between the European Union and the Republic of Armenia. The measures whose adoption is envisaged concern, generally, all the areas covered by the Comprehensive and Enhanced Partnership Agreement and aim at further implementing and deepening the partnership between the Parties. It follows that the field within

¹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

which the decision falls must be determined in the light of the Comprehensive and Enhanced Partnership Agreement as a whole.

Therefore, the substantive legal basis of the proposed decision is Articles 91, 100(2), 207 and 209 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Articles 91, 100(2), 207 and 209 TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Partnership Council will replace Recommendation No 1/2017 of 20 November 2017 on the EU-Armenia Partnership Priorities, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91, 100(2), 207 and 209, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part ('the Agreement') was concluded by the Union by Council Decision 2018/104² and entered into force on 1 March 2021.
- (2) To facilitate the application of the Agreement, the Parties have agreed to establish a Partnership Agenda listing priorities for their joint work broken down by sector.
- (3) The Partnership Agenda sets out concrete objectives for EU-Armenia cooperation, divided into short-term (3-4 years) and medium-term (7 years) priorities. The priority actions focus on promoting economic development and diversification, enhancing regulatory alignment and strengthening Armenia's resilience across all sectors.
- (4) Pursuant to Article 362(6) of the Agreement, the Partnership Council may adopt recommendations for the purpose of attaining the objectives of the Agreement.
- (5) The Partnership Council is to adopt a recommendation on the EU-Armenia Partnership Agenda in person at the next EU-Armenia Partnership Council or by written procedure.
- (6) The envisaged recommendation will have legal effects.
- (7) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Partnership Council, as the EU-Armenia Partnership Agenda should be the basis for the programming of EU assistance, including under the Neighbourhood, Development and International Cooperation Instrument – Global Europe which was established by Regulation (EU) 2021/947 of the European Parliament and of the Council.
- (8) The position of the Union within the Partnership Council should therefore be based on the attached draft Recommendation.

² OJ L 23, 26.1.2018, p. 1–3

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the EU-Armenia Partnership Council shall be based on the draft act of the Partnership Council attached to this Decision.

Article 2

This Decision shall enter into force on [...].

Done at Brussels,

For the Council
The President