

Courtesy translation

**Opinion
of the Foreign and European Union Affairs Committee
of the Senate of the Republic of Poland**

**on the proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence COM(2016)109,
and the proposal for a 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 COM(2016)111**

adopted at the meeting on 29 November 2016

The Foreign and European Union Affairs Committee of the Senate of the Republic of Poland (FEUAC) does not support the proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence – COM(2016)109, and the proposal for a 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 – COM(2016)111.

1. The FEUAC believes that joining the Convention by the EU is justified by ideological reasons only. This is demonstrated, among other things, by the general and unclear definition of the purpose for which the EU envisages to be bound by the Convention. The reasons mentioned in the proposal could apply to almost any treaty of the Council of Europe. This belief is also confirmed by Articles 6, 18 and 49 (2) of the Convention, which directly promote legal constructs of ideological nature.
2. In the opinion of the FEUAC, the legal basis for the conclusion of the Convention is indicated erroneously. Articles 82 (2) and 84 of the TFEU, indicated as the legal basis, apply only to judicial cooperation in criminal matters. The thematic scope of the Convention is much broader, though. It is of interdisciplinary nature and refers to all aspects of social life relevant to counteracting violence against women – education (Article 14), preventive intervention and treatment programmes (Article 16), telephone helplines (Article 24).
3. The FEUAC points out that the Convention obligates states to apply measures to induce change of stereotypical social and cultural roles of women and men without stating which roles are considered stereotypical. The FEUAC believes that such an omission may lead to the infringement of Article 68 (3) and Article 71 (2) of the Constitution, which protect motherhood; Article 48 (1) of the Constitution, which gives parents the right to rear their children in accordance with their own convictions, as well as to the infringement of the right of churches to teach and educate with respect for their autonomy (Article 25 (3) of the Constitution).

4. Under the current state of law, the EU institutions have limited capacities of interfering with the legal order of Member States. The FEUAC warns that this situation will change completely after the EU's conclusion of the Convention, whose implementation will be scrutinised by both the European Court of Justice and the European Commission.
5. The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is supposed to issue recommendations for Member States based on the monitoring of the Convention implementation. The FEUAC believes that if such recommendations are to be based on the content of the Convention, their execution may be impossible or could violate the EU primary law, due to the missing treaty basis. On the other hand, if such recommendations are to be issued in connection with the EU powers under the treaties, they are unnecessary since the Union is entitled to take independent actions, or actions within the scope of shared competence.