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2007/0077 (CNS)

Recommendation for a

COUNCIL DECISION

**concerning the accession of Bulgaria and Romania to the Convention on the Law
applicable to Contractual Obligations, opened for signature in Rome on 19 June 1980**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The 2005 Act of accession of Bulgaria and Romania¹ has introduced a simplified system for the accession of Bulgaria and Romania to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU) or Art. 293 EC. It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 27 States): Article 3(3) of the Act provides simply that Bulgaria and Romania accede to these conventions and protocols by virtue of the Act of Accession.

Article 3(3) and 3(4) of the Act of Accession provide that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Bulgaria and Romania and to make all the necessary adjustments to these conventions required by reason of the accession of the two new Member States (which would include, in any event, the adoption of the conventions in the Bulgarian and Romanian languages, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the seven conventions and protocols concerned in the Justice and Home Affairs area.

The list includes the Convention of 19 June 1980 on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980, the Convention of 10 April 1984 on the accession of the Hellenic Republic to the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, the first Protocol of 19 December 1988 on the interpretation by the Court of Justice of the European Communities of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, the second Protocol of 19 December 1988 conferring on the Court of Justice of the European Communities certain powers to interpret the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, the Convention of 18 May 1992 on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19 June 1980, the Convention of 29 November 1996 on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19 June 1980, and to the First and Second Protocols on its interpretation by the Court of Justice.

In line with Article 3(6) the Commission has prepared a proposal to add to the list the Convention on the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the Convention on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980, and to the First and Second Protocols on its interpretation by the Court of Justice of the European Communities.

¹ OJ L 157, 21.6.2005, p. 203.

This Commission Recommendation for a Council Decision is intended to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Conventions and Protocols, in accordance with Article 3(4) of the Act of Accession.

Recommendation for a

COUNCIL DECISION

concerning the accession of Bulgaria and Romania to the Convention on the Law applicable to Contractual Obligations, opened for signature in Rome on 19 June 1980

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania (hereinafter referred to as the "Act of Accession"), and in particular Article 3 (4) thereof,

Having regard to the recommendation from the Commission²,

Having regard to the opinion of the European Parliament³,

Whereas:

- (1) The Convention on the Law applicable to Contractual Obligations (hereinafter referred to as the "Convention of 1980") was opened for signature in Rome on 19 June 1980 and entered into force on 1 April 1991.
- (2) The Convention of 1980 was complemented by the First and Second Protocols of 19 December 1988 on its interpretation by the Court of Justice⁴.
- (3) The Hellenic Republic acceded to the Convention of 1980 by the Convention of 10 April 1984⁵, which entered into force on 1 April 1991.
- (4) The Kingdom of Spain and the Portuguese Republic acceded to the Convention of 1980 by the Convention of 18 May 1992⁶, which entered into force on 1 September 1993.
- (5) The Republic of Austria, the Republic of Finland and the Kingdom of Sweden acceded to the Convention of 1980 by the Convention of 29 November 1996⁷, which entered into force on 1 October 1998.

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 48, 20.2.1989, p. 1 and OJ L 48, 20.12.1989, p. 17.

⁵ OJ L 146, 31.5.1984, p. 1.

⁶ OJ L 333, 18.11.1992, p. 1.

⁷ OJ C 15, 15.1.1997, p. 10.

- (6) Following the accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, a Convention was signed on 14 April 2005 on the accession of these new Member States to the Convention of 1980⁸, which has not yet entered into force.
- (7) Article 3 (3) of the Act of Accession provides that Bulgaria and Romania accede to the conventions and protocols concluded between the Member States, listed in Annex I to the Act of Accession, which comprises, *inter alia*, the Convention of 1980 and the First and Second Protocols of 1988 together with the Conventions on accession of 10 April 1984, 18 May 1992, 29 November 1996 and 14 April 2005. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.
- (8) In accordance with Article 3 (4) of the Act of Accession the Council is to make all adjustments required by reason of accession to those conventions and protocols,

HAS DECIDED AS FOLLOWS:

Article 1

The First Protocol of 1988 on the interpretation by the Court of Justice of the European Communities of the Convention of 1980 is amended as follows:

The following indents shall be inserted in Article 2(a):

– In Bulgaria:

Върховен касационен съд

– In Romania:

Înalta Curte de Casație și Justiție

Article 2

The Convention of 1980 and the First and Second Protocols of 1988, together with the Conventions on accession of 10 April 1984, 18 May 1992, 29 November 1996 as amended by this Decision, shall enter into force between Bulgaria, Romania and the other Member States on the first day of the first month following the date of adoption of this decision. The Convention on accession of 14 April 2005 shall enter into force between Bulgaria, Romania and the other Member States on the date of its entry into force.

Article 3

The texts of the Convention of 1980 and the First and Second Protocols of 1988, together with the Conventions on accession of 10 April 1984, 18 May 1992, 29 November 1996 and 14 April 2005, drawn up in the Bulgarian and Romanian languages and annexed to this Decision,

⁸ OJ C 169, 8.7.2005, p. 1.

shall be authentic under the same conditions as the other texts of these Conventions and Protocols.

Article 4

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, [...]

For the Council
The President

ANNEX

**Text of the Convention of 1980, the Convention of 1984, the First Protocol of 1988, the
Second Protocol of 1988, the Convention of 1992, the Convention of 1996 and the
Convention of 2005 in the Bulgarian and Romanian languages**