



Council of the
European Union

Brussels, 8 June 2017
(OR. en)

14350/1/16
REV 1 EXT 1

JUSTCIV 295

PARTIAL DECLASSIFICATION

of document: 14350/1/16 REV 1 RESTREINT UE/EU RESTRICTED
dated: 22 December 2016
new status: Public

Subject: Special Commission on the Judgments Project, the Hague,
16 to 24 February 2017
- Preparation of the EU position to be taken at the Special Commission

Delegations will find attached the partially declassified version of the above-mentioned document.



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NOTE

From: Presidency

To: Working Party on Civil Law Matters (General Questions)

No. prev. doc.: 8324/1/16 REV 1

Subject: Special Commission on the Judgments Project, the Hague,
16 to 24 February 2017
- Preparation of the EU position to be taken at the Special Commission

1. In the Annex to this note, delegations will find the suggested EU position to be taken at the Special Commission on the Judgments Project in The Hague, 16- 24 February 2017, as revised in the light of the discussions of the Council Working Party on Civil Law Matters (General Questions) on 2 December 2016.
2. The Working Party did not fully conclude its discussions on the points on 'defamation' (Article 2(1)(k) - point 23 of the Annex I), on 'judgments subject to review in State of origin' (Article 4(4) - point 34 of the Annex I), on 'arguable case' (Article 5(1)(f) - point 45 of the Annex I), and on 'costs' (Article 13 - point 94 of the Annex I) and. These issues will be addressed again by the Working Party in January 2017.

3. Additional aspects, such as

- matters relating to intellectual property rights;
- the relationship to the 2005 Choice of Court Convention (paper of the Permanent Bureau awaited);
- (other) general and final clauses (paper of the Permanent Bureau awaited);

will be prepared before the Special Commission session on the basis of (an) additional document(s).

1. The next Special Commission on the Judgments Project will take place from 16-24 February 2017. During this second meeting, the Special Commission will discuss and develop the 2016 preliminary draft Convention drawn up at the first meeting of the Special Commission held in June 2016. In order to facilitate discussions at the upcoming meeting, two papers have been prepared by the co-Rapporteurs in co-operation with the Permanent Bureau of the Hague Conference (one is on the concept of 'civil or commercial matters' and the other is on Article 7(1)(c) of the 2016 preliminary draft Convention). In addition, the Permanent Bureau has been tasked with the preparation of a paper on the relationship between the Choice of Court Convention and the future Judgments Convention. Inter-sessional work is ongoing on intellectual property matters. The *Aide Memoire* prepared by the Chair, Mr David Goddard, at the end of the first meeting of the Special Commission, lists the main outstanding issues.

2. The present Presidency note aims at preparing the EU's participation in the next Special Commission. It elaborates on some issues, as listed in the *Aide Memoire*, and gives some suggestions as to the position to be taken by the Union. The Presidency note is not exhaustive at this stage; other aspects of the draft text of the Convention will need to be discussed at a later stage, still prior to the next meeting of the Special Commission.

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