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JUSTCIV 256

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising the Republic of Austria to sign and ratify, and Malta to accede to, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, in the interest of the European Union

COUNCIL DECISION (EU) 2015/...

of ...

**authorising the Republic of Austria to sign and ratify,
and Malta to accede to,
the Hague Convention of 15 November 1965
on the Service Abroad of Judicial and Extrajudicial Documents
in Civil or Commercial Matters,
in the interest of the European Union**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ OJ C , , p. .

Whereas:

- (1) The Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ('the Convention') simplifies the methods of transmission of judicial and extrajudicial documents between the Contracting States. It thus facilitates judicial cooperation in cross-border civil and commercial litigation.
- (2) Many countries, including the Member States except the Republic of Austria and Malta, are parties to the Convention. The Republic of Austria and Malta have expressed their interest in becoming parties to the Convention. It is in the interest of the Union that all Member States are parties to the Convention. In addition, in the framework of Union external policy in the area of civil justice, the Union promotes accession to, and ratification of, the Convention by third States.
- (3) The Union has external competence with regard to the Convention in so far as its provisions affect the rules laid down in certain provisions of Union legislation or in so far as the accession of additional Member States to the Convention alters the scope of certain provisions of Union legislation, such as Article 28(4) of Regulation (EU) 1215/2012 of the European Parliament and of the Council¹.
- (4) The Convention does not allow for participation by regional economic integration organisations such as the Union. As a result, the Union is not in a position to accede to the Convention.

¹ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

- (5) The Council should therefore authorise the Republic of Austria to sign and ratify, and Malta to accede to, the Convention, in the interest of the Union. The Member States retain their competence in those areas of the Convention which do not affect Union rules or alter their scope, in accordance with Article 3(2) of the Treaty on the Functioning of the European Union.
- (6) The United Kingdom and Ireland are bound by Regulation (EC) No 1393/2007 of the European Parliament and of the Council¹ and are therefore taking part in the adoption and application of this Decision.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

¹ Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, p. 79).

Article 1

The Council hereby authorises the Republic of Austria to sign and ratify, and Malta to accede to, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, in the interest of the Union.

The text of the Convention is attached to this Decision.

Article 2

1. The Republic of Austria shall take the necessary steps to deposit its instrument of ratification of the Convention with the Ministry of Foreign Affairs of the Kingdom of the Netherlands within a reasonable time and at the latest by 31 December 2017.
2. The Republic of Austria shall inform the Council and the Commission of the date of its deposit of the instrument of ratification.

Article 3

1. After this Decision takes effect Malta shall notify the Ministry of Foreign Affairs of the Kingdom of the Netherlands of the date on which the Convention will become applicable to Malta.
2. Malta shall likewise inform the Council and the Commission of the date referred to in paragraph 1.

Article 4

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

Article 5

This Decision is addressed to the Republic of Austria and Malta.

Done at ...,

For the Council

The President
