



Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising Croatia, the Netherlands, Portugal and Romania to accept, in the interest of the European Union, the accession of San Marino to the 1980 Hague Convention on the Civil Aspects of International Child Abduction

COUNCIL DECISION (EU) 2017/...

of ...

**authorising Croatia, the Netherlands, Portugal and Romania to accept,
in the interest of the European Union,
the accession of San Marino to the 1980 Hague Convention
on the Civil Aspects of International Child Abduction**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with Article 218 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament¹,

¹ OJ C [...], [...], p. [...].

Whereas:

- (1) The European Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.
- (2) The Council adopted Regulation (EC) No 2201/2003¹ ("Brussels IIa Regulation"), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure the protection of rights of access and rights of custody.
- (3) The Brussels IIa Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ("the 1980 Hague Convention") which establishes, at international level, a system of obligations and cooperation among contracting states and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.
- (4) All Member States of the Union are party to the 1980 Hague Convention.

¹ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

- (5) The Union encourages third states to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on private international law.
- (6) A common legal framework applicable between Member States of the Union and third states could be the best solution for sensitive cases of international child abduction.
- (7) The 1980 Hague Convention stipulates that it applies between the acceding state and such contracting states as have declared their acceptance of the accession.
- (8) The 1980 Hague Convention does not allow regional economic integration organisations such as the Union to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding state.
- (9) Pursuant to Opinion 1/13 of the Court of Justice of the European Union¹, declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.
- (10) San Marino deposited its instrument of accession to the 1980 Hague Convention on 14 December 2006. The 1980 Hague Convention entered into force for San Marino on 1 March 2007.

¹ ECLI:EU:C:2014:2303.

- (11) All Member States, with the exception of Croatia, Denmark, the Netherlands, Portugal and Romania, have already accepted the accession of San Marino to the 1980 Hague Convention. An assessment of the situation in San Marino has led to the conclusion that Croatia, the Netherlands, Portugal and Romania are in a position to accept, in the interest of the Union, the accession of San Marino under the terms of the 1980 Hague Convention.
- (12) Croatia, the Netherlands, Portugal and Romania should therefore be authorised to deposit their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention in the interest of the Union in accordance with the terms set out in this Decision. The other Member States of the Union which have already accepted the accession of San Marino to the 1980 Hague Convention should not deposit new declarations of acceptance as the existing declarations remain valid under public international law.
- (13) The United Kingdom and Ireland are bound by the Brussels IIa Regulation and are taking part in the adoption and application of this Decision.
- (14) 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:

Article 1

1. Croatia, the Netherlands, Portugal and Romania are hereby authorised to accept the accession of San Marino to the 1980 Hague Convention in the interest of the Union.
2. Member States referred to in paragraph 1 shall, no later than ... [twelve months after the date of adoption of this Decision], deposit a declaration of acceptance of the accession of San Marino to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

"[Full name of MEMBER STATE] declares that it accepts the accession of San Marino to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2017/....⁺".
3. Member States referred to in paragraph 1 shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention and shall communicate the text of those declarations within two months of their deposit to the Commission.

⁺ OJ: please insert the number of this Decision.

Article 2

Those Member States which deposited their declarations of acceptance of the accession of San Marino to the 1980 Hague Convention prior to the date of adoption of this Decision shall not deposit new declarations.

Article 3

This Decision shall take effect on the date of its notification.

Article 4

This Decision is addressed to Croatia, the Netherlands, Portugal and Romania.

Done at ...,

For the Council

The President
