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PROPOSAL

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL DECISION on the accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

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Brussels, 16.7.2021
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Proposal for a

COUNCIL DECISION

on the accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

{SEC(2021) 279 final} - {SWD(2021) 192 final} - {SWD(2021) 193 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Currently, EU citizens and businesses seeking to have a judgment given in the EU recognised and enforced in a non-EU country face a scattered legal landscape due to the absence of a comprehensive international framework for the recognition and enforcement of foreign judgments in civil and commercial matters. This means that the judgment creditors have to navigate through a patchwork of national laws of non-EU countries on the acceptance of foreign judgments, as well as bilateral, regional and multilateral treaties in place. Therefore, to stand a chance that their judgment will be enforced, those engaging in international litigation have to invest resources, time and often external expertise to prepare a robust litigation strategy. This complexity, as well as the associated costs and legal uncertainty, are deterring factors which may cause businesses and citizens either to avoid court litigation and seek other forms of dispute resolution, give up on pursuing their claims, or decide not to engage in international dealings altogether. This, in turn, can have a negative impact on the willingness of EU businesses and citizens to engage in international trade and investment activities. In addition, because the enforcement of EU judgments in non-EU countries is uncertain, the right of access to justice of EU businesses and citizens is hampered.

The growth in international trade and investment flows increases these legal risks for EU businesses and citizens but this situation can be addressed through a predictable system of cross-border recognition and enforcement of civil or commercial judgments. However, until recently, at the international level the recognition and enforcement of foreign judgments in civil and commercial matters was not comprehensively regulated, even if some bilateral or multilateral agreements with limited scope exist. This situation has changed with the adoption of the **Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial matters** (the “Judgments Convention”)¹ in July 2019.

The Judgments Convention, adopted under the auspices of the Hague Conference on Private International Law (“HCCH”), has the potential to improve the current system of the circulation of foreign judgments. The Convention aims at promoting effective access to justice for all and facilitating rules-based multilateral trade and investment, and mobility, through judicial co-operation².

The EU has always been supportive of creating a multilateral system for the recognition and enforcement of judgments in civil or commercial matters and was thus actively involved in the negotiation process of the Convention with a view to its possible accession to this future international system. Based on the mandate given by the Council to the European Commission in May 2016³, the Commission represented the interests of the Union during the negotiation process at the HCCH.

¹ Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

² Preamble of the Judgments Convention.

³ See the *Outcome of the Council Meeting on Competitiveness (3470th Council meeting) of 26 and 27 May 2016, No 9357/16* and the *Draft Council Decision (No 8814/16) authorising the opening of negotiations on a Convention on the recognition and enforcement of judgments in civil and commercial matters (the Judgments Convention) in the framework of the Hague Conference on Private International Law*.

The negotiations of the Judgments Convention were successfully concluded in July 2019 and the Convention is currently open for signature, ratification, or accession. Should the European Union accede to the Judgments Convention as proposed by the Commission, the Convention would apply to the recognition and enforcement of incoming and outgoing judgments among the EU Member States and other Contracting States of the Convention.

This proposal is in line with the objectives of the Commission set out in the Political Guidelines for the European Commission (2019-2024)⁴, in particular related to the priority “A new push for European democracy”⁵. It is in line with the Union’s commitment to multilateralism in international relations and it is likely to encourage other countries and EU trading partners to join the Judgments Convention. The EU accession to a multilateral convention on the recognition and enforcement of judgments in civil and commercial matters would also be in line with the Union's policy aimed at increasing growth in international trade and foreign investment and the mobility of citizens around the world.

- **Consistency with existing policy provisions in the policy area**

The EU has a well-developed system⁶ of mutual recognition and enforcement of judgments in civil and commercial matters among Member States which was put in place as a necessary complement to its single market. However, the Brussels Ia Regulation⁷ does not apply to the recognition and enforcement of judgments rendered in non-EU countries.

At the international level, the EU has concluded an international convention with the EEA States and Switzerland (the 2007 Lugano Convention⁸). In addition, a first attempt to establish a multilateral framework for the recognition and enforcement of judgments has resulted in the conclusion of the 2005 Choice of Court Convention⁹. This convention ensures the recognition and enforcement of judgments in cases where the parties have agreed on the court having exclusive jurisdiction to hear their dispute. The Union has ratified this Convention in 2015, which means that it is now part of the Union *acquis*.

Beyond the 2005 Choice of Court Convention, which only has a limited scope of application, no global multilateral framework for the circulation of judgments exists.

The Judgments Convention would thus complement the existing legal framework in the Union, ensuring the circulation of foreign judgments beyond the existing system applicable among EU and EEA States and Switzerland.

⁴ https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

⁵ While also supporting the objectives of the headline categories “*A stronger Europe in the World*” and “*An economy that works for people*”.

⁶ See 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 (recast), Official Journal L 351, 20 December 2012, p. 1 (“Brussels Ia Regulation”).

⁷ *Ibid.*

⁸ Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 339, 21.12.2007, p. 3–41.

⁹ Convention of 30 June 2005 on Choice of Court Agreements.

The EU internal *acquis* would not be altered by the Convention in the absence of any declaration because the two instruments apply in different contexts¹⁰. This is so because the Brussels Ia Regulation applies to the recognition and enforcement of intra-EU judgments, while the Convention would apply to judgments originating in non-EU countries. However, a declaration is needed in order to ensure that the achievement of the policy objectives of the Brussels Ia Regulation is not affected by the accession to the Convention. More specifically, in cases involving commercial tenancies, the Brussels Ia Regulation affords exclusive jurisdiction to courts in a Member State where the immovable property is located. The Judgments Convention does not include such exclusive jurisdictional rules for commercial tenancies. Therefore, under the Convention, Member States would be obliged to recognise and enforce third-country judgments on commercial leases of immovable property that is situated on their territory. This would be in contradiction to the policy objective behind the Brussels Ia Regulation to attribute exclusive jurisdiction to courts in the EU for disputes related to immovable property situated in the EU.

Therefore, a targeted declaration excluding the recognition and enforcement of judgments on commercial tenancies of immovable property situated in the EU should be made upon accession. This limited declaration guarantees coherence of the Convention with the EU *acquis* without impeding the full achievement of all the policy objectives of this proposal.

- **Consistency with other Union policies**

The Judgments Convention is the result of a gradual process of facilitating the circulation of judgments worldwide. It builds on the 2005 Choice of Court Convention, aiming at extending the scope of judgments which may circulate among States. The Conventions adopted under the auspices of the Hague Conference aim to do so without interfering with specialised conventions which may exist in particular areas such as maritime and transport matters nor with existing bilateral conventions.

Because of the increase in legal certainty and the reduced costs and length of proceedings in international litigation, the Judgments Convention has the potential to encourage EU businesses and citizens to engage in international dealings, thereby increasing the volumes of cross-border trade and investment.

Finally, accession to the Judgments Convention is in line with the Union's commitment to multilateralism and to a rules-based global order.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The competence of the Union to regulate matters of recognition and enforcement of foreign judgments in civil and commercial matters is based on Article 81(2), point (a) TFEU.

In line with Article 3(2) TFEU the Union has exclusive competence for the conclusion of an international agreement insofar as such conclusion may affect common EU rules or alter their scope. As a result of the adoption of the Brussels I Regulation, the Union has acquired such

¹⁰ See Article 23(4) of the Judgments Convention. It should be noticed that the application of the Lugano Convention or of the 2005 Choice of Court Convention would also not be affected by the Convention as earlier in time treaties take precedence, based on Article 23(2).

exclusive external competence to regulate matters concerning the recognition and enforcement of third-country judgments in civil and commercial matters¹¹.

The Judgments Convention on the recognition and enforcement of foreign judgments thus falls within this exclusive external competence of the Union. The Union may accede thereto on the basis of Articles 81(2), point (a) and 218(6), point (a) TFEU.

- **Subsidiarity (for non-exclusive competence)**

Not applicable

- **Proportionality**

The objectives of this proposal are to enhance access to justice for EU parties by facilitating the recognition and enforcement of judgments given by courts in the EU wherever the debtor happens to have assets, to increase legal certainty for businesses and citizens involved in international dealings and to decrease costs and length of proceedings in cross-border court litigation. At the same time, this proposal seeks to allow the recognition and enforcement of third-country judgments in the EU only where fundamental principles of EU law are respected and the internal *acquis* is not affected.

These objectives can only be achieved by adhering to a system of mutual recognition and enforcement of judgments among States, such as the one adopted in the Judgments Convention. The possibility to negotiate multilateral or bilateral conventions on recognition and enforcement of judgments is no longer available to the Member States because external competence in matters of international jurisdiction and recognition and enforcement of judgments in civil and commercial matters lies exclusively with the European Union.

Unilateral action at EU level would not achieve the objectives set out above because it would not facilitate the recognition and enforcement of EU judgments in non-EU countries.

Finally, acceding to an existing multilateral framework that the EU helped negotiate would be more efficient than entering into negotiations with non-EU States at a bilateral level. Depending on how many States will adhere to the Convention, it would ensure a common legal framework to deal with third-country judgments wherever they come from. It would also ensure one common legal framework for EU businesses and citizens seeking recognition and enforcement of judgments given by the courts in the EU in non-EU countries¹².

- **Choice of the instrument**

Not applicable

¹¹ This has been confirmed by the CJEU in its *Lugano Opinion*, where the CJEU held that the exclusive external competence of the European Community, applies *inter alia* to the recognition and enforcement of third-country judgments in civil and commercial matters. See Opinion 1/03, ECLI:EU:C:2006:81.

¹² On this matter, see also sections 3 and 4 of the Impact Assessment report accompanying this proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

In the framework of assessing the different policy options related to the Judgments Convention, the Commission sought the stakeholders' opinions through an open public consultation and a workshop with the Member States¹³. In addition, a study was carried out by an external contractor who also conducted a number of consultation activities, such as an online survey, targeted interviews with stakeholders as well as a questionnaire distributed to Member States' authorities.

These consultation activities showed that accession to the Judgments Convention was supported both by Member States and by the overwhelming majority of stakeholders (for example legal professionals, businesses, professional organisations of lawyers and of bailiffs, academics). On the possibility to make declarations¹⁴, Member States opposed a declaration based on Article 19 of the Convention and did not express clear views on declarations under Article 18. Only a small number of stakeholders favoured accession with a declaration under Article 19 while there was no clear tendency detected for Article 18 declarations.

The input from these consultation activities was very important in forging the Commission's views on the best approach to be taken in this proposal. As a result, the Commission decided to propose the EU's accession to the Judgments Convention with a limited, targeted declaration excluding the recognition and enforcement by courts in the EU of third-country judgments which ruled on commercial leases (tenancies) of immovable property situated in the EU.

- **Collection and use of expertise**

In the process of negotiation of the Judgments Convention, the Commission has constantly consulted with and relied on the expertise provided by experts from the Member States. In addition, experts from the Member States were also consulted as part of the preparatory work for this proposal.

The Commission also relied on a study carried out by an external contractor in order to support the impact assessment analysis. This study¹⁵ contains an extensive economic and legal analysis of the different available policy options. The study uses different analytical tools, ranging from the use of empirical data gathered in different ways (online survey, questionnaire and interviews), to statistics or desk analysis. Where quantitative data was not available, qualitative estimates were used. These estimates, as well as the different assumptions used, were confirmed by external experts at a workshop meeting.

¹³ At the workshop, the Member States expressed their preliminary views pending further analysis of the implications of all policy options.

¹⁴ Declaration either based on Article 18 of the Convention (excluding certain matters) and/or Article 19 (excluding judgments in civil or commercial matters pertaining to States).

¹⁵ To be published once this proposal is adopted.

The study concluded that the most suitable way to achieve the policy objectives is to accede to the Convention without any declaration. This conclusion is reflected in this proposal as accession to the Judgments Convention is proposed only with a limited, targeted declaration that is considered necessary to achieve coherence with the existing EU *acquis*. At the same time, such a limited declaration does not hamper the achievement of the other objectives of this proposal nor its efficiency in terms of the expected direct benefits for EU businesses and citizens.

Finally, the Commission has relied on the extensive expertise on the recognition and enforcement of judgments at EU level with the application of the Brussels Ia Regulation, its predecessor Regulation (EC) 44/2001¹⁶, which itself was the successor of the 1968 Brussels Convention¹⁷ on the same subject matter. Extensive guidance by the CJEU exists in relation to the interpretation and application of these instruments at EU level.

- **Impact assessment**

The desirability of the EU accession to the Convention was considered in the framework of an Impact Assessment report. For the scenario that the EU accedes to the Convention, several alternative policy options were taken into consideration. These policy options included the accession either without any declaration or with specifically defined declarations – either with a declaration under Article 18 of the Convention excluding certain matters from the scope (consumer, employment or insurance matters and/or commercial leases of immovable property), or with a declaration under Article 19 of the Convention excluding judgments in civil and commercial matters involving States or State entities.

The preferred option is to accede to the Convention with a limited, targeted declaration excluding the recognition and enforcement of judgments which ruled on commercial leases (tenancies) of immovable property situated in the EU.

For the purposes of quantifying the impacts of the Judgments Convention on the circulation of judgments between the EU and non-EU countries, a working assumption was made that eight selected non-EU countries would join the Convention. The selected non-EU countries were Australia, Argentina, Brazil, Canada, China, Japan, South Korea and the United States of America. All impacts were estimated for a reference period of 2022-2026.

The preferred option will enhance access to justice and increase legal certainty and predictability in international court litigation. The direct benefits for EU citizens and businesses when attempting to have an EU judgment recognised and enforced in the selected non-EU countries are estimated to be between EUR 1.1 and 2.6 Million by 2026. This has to do with a projected decrease of 10%-20% of costs related to the recognition and enforcement of EU judgments in non-EU countries. In addition, the average length of proceedings is expected to decrease by three to six months on average.

A simpler and more predictable system for the recognition and enforcement of foreign judgments in civil and commercial matters is also set to promote international trade and investment. As international trade and investment are likely to grow, there could be positive impacts both at micro and macro-level, as well as positive effects on the employment

¹⁶ See Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Official Journal L 12, 16 January 2001, p. 1.

¹⁷ See the 1968 Brussels Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, Official Journal L 299, 31 December 1972, p. 32.

opportunities. Especially SMEs will benefit from the improved access to justice and legal certainty in international dealings brought about by the Judgments Convention.

Notably, the preferred policy option is fully in line with the EU *acquis* on this matter, namely the Brussels Ia Regulation. Under the preferred option, the commercial leases (tenancies) are excluded from the application of the Convention, since the Brussels Ia Regulation affords exclusive jurisdiction to courts in the EU to deal with disputes related to commercial tenancies of immovable property situated in the EU.

On the other hand, a declaration that would exclude the other considered matters¹⁸ was not deemed to be necessary. The Convention does provide adequate protection for weaker parties (consumers, employees or the insurance policyholder, the insured or the beneficiary of an insurance policy), albeit in a different fashion than the EU *acquis*. Moreover, unlike the commercial leases of immovable property situated in the EU, other declarations, which are broader in scope, could impede the full achievement of the objectives of this initiative.

The impact assessment report received a positive opinion of the Regulatory Scrutiny Board on 23 April 2021.

- **Regulatory fitness and simplification**

The proposal does not have cost implications for SMEs. In addition, because SMEs tend to favour court litigation over arbitration, the increase in legal certainty combined with lower costs and length of proceedings in international litigation is expected to have a positive effect on their willingness to engage in or expand international dealings. The accession to the Convention may also improve the competitiveness of SMEs. This is so because the costs of international litigation and thus indirectly of doing business internationally will decrease, which will provide SMEs having their seat in the EU with a comparative advantage over businesses from countries that did not ratify the Convention. The proposal is expected to also have a positive impact on international trade and investment.

- **Fundamental rights**

The proposal is set to improve access to justice for EU businesses and citizens because the cross-border recognition and enforcement of judgments, an integral part of the right of access to justice, will generally improve and be more predictable. The Convention reflects to a large extent the rules on the recognition and enforcement of judgments applicable internally in the EU (the Brussels Ia Regulation). Consequently, the Convention in principle does not diverge from EU fundamental rights and principles of procedural fairness. In particular, the Convention provides a ground to refuse the recognition and enforcement of judgments incompatible with fundamental principles of procedural fairness or with the public policy of the State where recognition and enforcement is sought. This would help to ensure on the basis of a tested approach¹⁹ that fundamental rights such as the right of the defence or the right to a fair trial have been duly observed in a non-EU country. In addition, by improving the recognition and enforcement of judgments given by EU courts in third countries the Convention is set to facilitate the freedom to conduct a business as well as to enhance the respect of the right to property in the EU.

¹⁸ These were consumer, employment and insurance matters.

¹⁹ In addition to the Brussels Ia Regulation, this approach has been applied also in the Lugano Convention and the 2005 Choice of Court Convention.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications for the Union budget. Member States may have one-off costs for the implementation of the Convention and there could be slightly higher costs for the judiciary of the Member States due to the expected slight rise in the number of cases. However, it is expected that these costs will be offset in the medium and longer term by the expected decrease in the length of proceedings.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

As the proposal concerns the EU accession to an international convention that contains clear rules as to the recognition and enforcement of foreign judgments, no implementation plan will be established.

With regard to monitoring and evaluation of the practical operation of the Convention, the EU will take part in Special Commission meetings organised regularly by the HCCH to take stock of the practical application of the Convention.

The EU's internal evaluation and monitoring mechanism will as much as possible correspond to the stocktaking mechanism at the HCCH. The evaluation will be performed at regular intervals and will include the assessment of the impacts flowing from the EU accession to the Judgments Convention as well as the evaluation as to whether the main objectives pursued through the accession have been achieved. Furthermore, the evaluation will also include an analysis of the desirability of declarations so as to assess whether to keep or revoke the declaration(s) already made or whether to make new declaration(s).

- **Explanatory documents (for directives)**

Not applicable

- **Detailed explanation of the specific provisions of the proposal**

Given the exclusive external competence of the European Union and the fact that the Judgments Convention allows, by virtue of its Article 26, that a Regional Economic Integration Organisation accedes thereto, the EU should become a Contracting Party to the Convention itself without the Member States based on a positive decision by the Council.

When acceding, the European Union should therefore make a declaration in accordance with Article 27 of the Convention that the EU exercises competence over all the matters governed by the Convention and that its Member States will not be Contracting Parties to the Convention, but will be bound by the Convention by virtue of the EU accession. In compliance with the Protocol (No 22) on the position of Denmark annexed to the Treaty on the Functioning of the European Union according to which Denmark does not take part in measures taken pursuant to Article 81(2) of the Treaty, the EU accession to the Judgments Convention does not include Denmark.

When acceding to the Convention, the EU should also make a declaration concerning the substantive scope of the Convention pursuant to Article 18 of the Convention, excluding from the scope of the Convention judgments that ruled on commercial leases (tenancies) of immovable property situated in the European Union.

Proposal for a

COUNCIL DECISION

on the accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters under the auspices of the Hague Conference on Private International Law ('the Convention') was concluded on 2 July 2019.
- (2) The Convention seeks to promote access to justice globally through enhanced international judicial cooperation. In particular, the Convention seeks to reduce risks and costs associated with cross-border litigation and dispute resolution and, as a result, to facilitate international trade, investment, and mobility.
- (3) The Union participated actively in the negotiations leading up to the adoption of the Convention and shares its goals.
- (4) Currently, Union citizens and businesses seeking to have a judgment given in the Union recognised and enforced in a non-Union country face a scattered legal landscape due to the absence of a comprehensive international framework for the recognition and enforcement of foreign judgments in civil and commercial matters. The growth in international trade and investment flows increases these legal risks for Union businesses and citizens but this situation should be addressed through a predictable system of cross-border recognition and enforcement of judgments in civil or commercial matters.
- (5) These objectives can only be achieved by adhering to a system of mutual recognition and enforcement of judgments among States, such as the one adopted in the Convention. At the same time, the Convention should only allow the recognition and enforcement of third-country judgments in the Union, where fundamental principles of Union law are respected and the internal *acquis* is not affected.
- (6) Pursuant to Article 26 of the Convention, regional economic integration organisations which have competence over some or all of the matters governed by the Convention, such as the Union can sign, accept, approve or accede to the Convention.
- (7) In accordance with Article 3(2) of the Treaty, the Union has exclusive competence for the conclusion of an international agreement insofar as it may affect common Union

¹ OJ C , , p. .

rules or alter their scope. The Convention affects Union secondary legislation on jurisdiction and the recognition and enforcement of the resulting judgments, in particular Regulation (EU) No 1215/2012 of the European Parliament and of the Council². Therefore, the Union has exclusive competence in all matters governed by the Convention.

- (8) Pursuant to Articles 24(3) and 28 of the Convention, accession to the Convention can occur before its entry into force.
- (9) The Union should conclude the Convention by way of accession.
- (10) When acceding to the Convention, the Union should declare under Article 27 of the Convention that it exercises competence over all the matters governed by the Convention. Consequently, the Member States should be bound by the Convention by virtue of its conclusion by the Union.
- (11) In cases involving commercial leases (tenancies), Regulation (EU) No 1215/2012 affords exclusive jurisdiction to courts in a Member State where the immovable property is located. The Convention does not include such exclusive jurisdictional rules for commercial tenancies. Therefore, when acceding to the Convention, the Union should make a declaration under Article 18 of the Convention, excluding from the scope of the Convention judgments on commercial tenancies of immovable property situated in the Union.
- (12) Ireland is bound by Regulation (EU) No 1215/2012 and is therefore taking part in the adoption of this Decision.
- (13) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed 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

The Hague Convention of 2 July 2019 on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters ('the Convention') is hereby concluded by the Union.

The text of the Convention is attached to this Decision.

Article 2

The Commission shall designate the person empowered to deposit, on behalf of the Union, the instrument of accession referred to in Article 24(4) of the Convention.

Article 3

When depositing the instrument referred to in Article 24(4) of the Convention, the Union shall make the following declaration in accordance with Article 27(1) of the Convention:

“The European Union declares, in accordance with Article 27(1) of the Convention, that it exercises competence over all the matters governed by this Convention. Its Member States

² 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).

will not sign, ratify, accept or approve the Convention, but shall be bound by the Convention by virtue of its conclusion by the European Union.

For the purpose of this declaration, the term “European Union” does not include the Kingdom of Denmark by virtue of Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on the Functioning of the European Union”.

Article 4

When depositing the instrument referred to in Article 24(4) of the Convention, the Union shall make the following declaration in accordance with Article 18 concerning commercial leases (tenancies) of immovable property:

“The European Union hereby declares under Article 18 of the Convention that it will not apply the Convention to commercial leases (tenancies) of immovable property situated in the European Union.”

Article 5

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*³.

Done at Brussels,

For the Council
The President

³ The date of entry into force of the Agreement will be published in the Official Journal of the European Union by the General Secretariat of the Council.