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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION concerning the accession of the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters

COUNCIL DECISION (EU) 2021/...

of ...

**concerning the accession of 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 Article 81(2), point (a), and Article 218(6), second subparagraph, point (a)(v), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ Consent of ... (not yet published in the Official Journal).

Whereas:

- (1) The Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters ('the Convention') was concluded under the auspices of the Hague Conference on Private International Law 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 has increased the legal risks for Union citizens and businesses.

- (5) This situation should therefore be addressed by establishing a predictable system of cross-border recognition and enforcement of judgments in civil or commercial matters. Those 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 would allow for the recognition and enforcement of third-country judgments in the Union only where fundamental principles of Union law are respected.
- (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, may sign, accept, approve or accede to the Convention.
- (7) Pursuant to Article 3(2) of the Treaty on the Functioning of the European Union (TFEU), the Union has exclusive competence for the conclusion of an international agreement in so far as its conclusion may affect common rules or alter their scope. The Convention affects Union legislation, in particular Regulation (EU) No 1215/2012 of the European Parliament and of the Council¹. Therefore, the Union has exclusive competence in all matters governed by 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).

- (8) Pursuant to Article 24(3) and Article 28 of the Convention, accession to the Convention can occur before its entry into force.
- (9) The Union should therefore accede to the Convention.
- (10) When acceding to the Convention, the Union should declare, in accordance with Article 27 of the Convention, that it exercises competence over all the matters governed by the Convention. Consequently, the Member States would be bound by the Convention by virtue of the accession of the Union.
- (11) In cases involving non-residential 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 non-residential tenancies. Therefore, when acceding to the Convention, the Union should declare, in accordance with Article 18 of the Convention, that it will not apply the Convention to non-residential leases (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 European Union and to the TFEU, 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 accession of the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters is hereby approved on behalf of the Union.¹⁺

Article 2

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

Article 3

When depositing the instrument, 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 will not sign, ratify, accept or approve the Convention, but shall be bound by the Convention by virtue of the accession of the European Union.

¹ The text of the Convention is published in ... [insert OJ reference].

⁺ Delegations/OJ: see document ST 13494/21 ADD1.

For the purposes of this declaration, the term "European Union" does not include the Kingdom of Denmark by virtue of Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.'.

Article 4

When depositing the instrument, the Union shall make the following declaration, in accordance with Article 18 of the Convention, concerning non-residential leases (tenancies) of immovable property:

'The European Union declares, in accordance with Article 18 of the Convention, that it will not apply the Convention to non-residential leases (tenancies) of immovable property situated in the European Union.'.

Article 5

This Decision shall enter into force on the date of its adoption¹.

Done at ...,

For the Council

The President

¹ The date of entry into force of the Convention will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.