

## **Convention on the Civil Aspects of International Child Abduction**

**European Parliament resolution of 22 November 2012 on the declaration of acceptance by the Member States, in the interest of the European Union, of the accession of eight third countries to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (2012/2791(RSP))**

*The European Parliament,*

- having regard to Articles 2(2), 3(2), 4(2)(j), 81(3), 216(1) and 218(6)(b) of the Treaty on the Functioning of the European Union,
  - having regard to the case law of the Court of Justice of the European Union, in particular Cases 22/70<sup>1</sup> and C-467/98<sup>2</sup> and Opinion 1/03<sup>3</sup>,
  - having regard to the Commission proposals for Council decisions on the declaration of acceptance by the Member States, in the interest of the European Union, of the accession of Gabon<sup>4</sup>, Andorra<sup>5</sup>, the Seychelles<sup>6</sup>, the Russian Federation<sup>7</sup>, Albania<sup>8</sup>, Singapore<sup>9</sup>, Morocco<sup>10</sup> and Armenia<sup>11</sup> to the 1980 Hague Convention on the Civil Aspects of International Child Abduction,
  - having regard to the fact that the Council has not yet requested Parliament's consent to these decisions,
  - having regard to the question put to the Commission on the declaration of acceptance by the Member States, in the interest of the European Union, of the accession of eight third countries to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (O-000159/2012 – B7-0367/2012),
  - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction is of great importance, as it establishes a system allowing participating states to cooperate in order to find a solution to international child abductions, by determining which courts are competent and which law is applicable when deciding where

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<sup>1</sup> Case 22/70, *Commission v Council* (ERTA), [1971] ECR 263, paragraph 16.

<sup>2</sup> Case C-467/98, *Commission v Denmark*, [2002] ECR I-9519, paragraph 77.

<sup>3</sup> Opinion 1/03 on the competence of the Community to conclude the new Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, [2006] ECR I-1145, paragraph 126.

<sup>4</sup> COM(2011)0904.

<sup>5</sup> COM(2011)0908.

<sup>6</sup> COM(2011)0909.

<sup>7</sup> COM(2011)0911.

<sup>8</sup> COM(2011)0912.

<sup>9</sup> COM(2011)0915.

<sup>10</sup> COM(2011)0916.

<sup>11</sup> COM(2011)0917.

the child should reside;

- B. whereas the Convention thus provides for the speedy return of abducted children to their proper country of residence;
  - C. whereas the Convention only applies between countries which have ratified or acceded to it;
  - D. whereas the accession of new states must be accepted by those states which are already members in order for the Convention to apply between them;
  - E. whereas the acceptance of accessions is therefore of the utmost importance;
  - F. whereas the European Union has already exercised its internal competence in the field of international child abductions, in particular by means of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility<sup>1</sup>;
  - G. whereas it follows that the European Union has acquired exclusive external competence in the field of international child abduction;
  - H. whereas, given that the Convention does not allow international organisations to become members, the European Union should empower the Member States to act in its interest when accepting the aforementioned accessions;
  - I. whereas the Council should therefore take steps as quickly as possible to adopt the decisions proposed by the Commission, including by consulting Parliament immediately;
  - J. whereas it appears that, despite the urgency of the matter and the clarity of the legal situation, the Council has decided to delay the consultation of Parliament and the adoption of the aforementioned decisions with a view to contesting the principle of those decisions on legal grounds;
- 1. Addresses the following recommendations to the Council:
    - (a) the Council should proceed immediately with the procedure for the adoption of the aforementioned proposed decisions;
    - (b) to that end, it should consult Parliament on the eight proposed decisions;
    - (c) in the interest of European citizens who would benefit from the adoption of those decisions, it should refrain from impeding the proper functioning of the European Union on spurious legal grounds;
  - 2. Instructs its President to forward this resolution to the Council and, for information, to the Commission and the Permanent Bureau of the Hague Conference on Private International Law.

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<sup>1</sup> OJ L 338, 23.12.2003, p. 1.