



2017/0148(NLE)

11.9.2017

DRAFT REPORT

on the proposal for a Council decision authorising Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction
(COM(2017)0357 – C8-0233/2017 – 2017/0148(NLE))

Committee on Legal Affairs

Rapporteur: Angel Dzhambazki

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	6

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision authorising Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (COM(2017)0357 – C8-0233/2017 – 2017/0148(NLE))

(Consultation)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2017)0357),
 - having regard to Article 38, fourth paragraph, of the 1980 Hague Convention on the Civil Aspects of International Child Abduction,
 - having regard to Article 81(3) and Article 218(6), second subparagraph, point (b), of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0233/2017),
 - having regard to the opinion of the Court of Justice¹ on the exclusive external competence of the European Union for a declaration of acceptance of an accession to the 1980 Hague Convention on the Civil Aspects of International Child Abduction,
 - having regard to Rules 78c and 108(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0000/2017),
1. Approves the authorisation for Luxembourg and Romania to accept, in the interest of the European Union, the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States, as well as to the Permanent Bureau of the Hague Conference on Private International Law.

¹ Opinion of the Court of Justice of 14 October 2014, 1/13, ECLI:EU:C:2014:2303.

EXPLANATORY STATEMENT

The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction is a vitally important instrument. It has been ratified by all EU Member States.

The Convention introduces a system of cooperation between the contracting states aimed at settling cases of international child abduction.

In many instances, these problems arise when a couple has separated. If the mother and father are from different states, there is a temptation to exploit the lack of cooperation between those states in order to secure custody of the child. The press is full of reports on cases of international child abduction following a separation or a divorce.

The biggest problem in such cases is the national bias of the legal systems of individual states. It may often be that the courts in both of the states concerned declare themselves competent, with each of them awarding custody of the child to the parent who is a national of their state.

The purpose of the Convention is to resolve such situations at an international level, by establishing that the competent courts and applicable laws are those of the state of residence of the child. The Convention also introduces a system which ensures the immediate return of children who have been abducted.

The EU now has exclusive external competence in this field as confirmed by the Court of Justice in Opinion 1/13. The Member States therefore no longer act on their own account. The problem is that the Convention does not provide for autonomous action by international organisations.

Georgia deposited the accession instrument to the 1980 Convention on 24 July 1997. The Convention entered into force in Georgia on 1st October 1997. The 1980 Convention is already into force between Georgia and 25 EU Member States. Only Luxembourg, Denmark and Romania have not yet accepted the accession of Georgia to the Convention.

South Africa deposited the accession instrument to the 1980 Convention on 8 July 1997. The Convention entered into force in South Africa on 1st October 1997. The 1980 Convention is into force between South Africa and 26 Member States. Only Luxembourg and Romania have not yet accepted the accession of South Africa to the Convention.

As the matter of international child abduction falls within the exclusive external competence of the European Union, the decision whether to accept the accession of Georgia and South Africa has to be taken at EU level by means of a Council Decision. Luxembourg and Romania should thus make the declaration of acceptance concerning the accession of Georgia and South Africa in the interest of the European Union.

The acceptance of Luxembourg and Romania would render the 1980 Convention applicable between Georgia and all EU Member States except Denmark. In relation to South Africa the 1980 Convention will become applicable with all EU Member States.

The accession of Georgia and South Africa to the Convention is to be welcomed. Your

rapporteur fully supports this, as children with links to the Georgian and South African communities will thus be safeguarded against abduction.

Your rapporteur therefore proposes that Parliament approve the proposal without amendment, in order to ensure that EU-wide protection is afforded to the children in question.