



**2018/0277(NLE)**

6.11.2018

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## **DRAFT REPORT**

on the proposal for a Council decision authorising Austria to accept, in the interest of the European Union, the accession of Ecuador and Ukraine to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (COM(2018)0527 – C8-0375/2018 – 2018/0277(NLE))

Committee on Legal Affairs

Rapporteur: Mary Honeyball

### ***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.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision authorising Austria to accept, in the interest of the European Union, the accession of Ecuador and Ukraine to the 1980 Hague Convention on the Civil Aspects of International Child Abduction (COM(2018)0527 – C8-0375/2018 – 2018/0277(NLE))**

### **(Consultation)**

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2018)0527),
  - 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 (C8-0375/2018),
  - having regard to the opinion of the Court of Justice<sup>1</sup> 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(8) of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A8-0000/2018),
1. Approves the authorisation for Austria to accept, in the interest of the European Union, the accession of Ecuador and Ukraine 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.

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<sup>1</sup> 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.

Ecuador deposited the accession instrument to the 1980 Convention on 22 January 1992. The Convention entered into force in Ecuador on 1 April 1992.

The 1980 Convention is already into force between Ecuador and 26 EU Member States. Only Austria and Denmark have not yet accepted the accession of Ecuador to the Convention.

Ukraine deposited the accession instrument to the 1980 Convention on 2 June 2006. The Convention entered into force in Ukraine on 1 September 2006.

The 1980 Convention is already into force between Ukraine and 26 EU Member States. Only Austria and Denmark have not yet accepted the accession of Ukraine 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 Ecuador and Ukraine has to be taken at EU level by means of a Council Decision. Austria should thus make the declaration of acceptance concerning the accession of Ecuador and Ukraine in the interest of the European Union.

The acceptance of Austria would render the 1980 Convention applicable between Ecuador, Ukraine and all EU Member States except Denmark.

The accession of Ecuador and Ukraine to the 1980 Hague Convention on the Civil Aspects of International Child 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.