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REPORT

on the proposal for a Council decision on the conclusion by the European Community of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance
(COM(2009)0373 – C7-0156/2009 – 2009/0100(NLE))

Committee on Legal Affairs

Rapporteur: Jiří Maštálka

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 in the draft act.)

Amendments to a text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the draft act has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision on the conclusion by the European Community of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance
(COM(2009)0373 – C7-0156/2009 – 2009/0100(NLE))**

(Consultation)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2009)0373),
 - having regard to Articles 61(c) and 300(2), first subparagraph, of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C7-0156/2009),
 - having regard to the Communication from the Commission to the European Parliament and the Council entitled "Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures" (COM(2009)0665),
 - having regard to Articles 81(3) and 218(6)(b) of the Treaty on the Functioning of the EU,
 - having regard to Rules 55 and 90(8) of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A7-0005/2010),
1. Approves conclusion of the Convention;
 2. Instructs its President to forward its position to the Council and the Commission.

EXPLANATORY STATEMENT

The issue in brief

Parliament is consulted on a proposal for the Community to conclude an international convention aiming to ensure a more effective recovery of child support and other forms of family maintenance.

The Council consulted Parliament on this proposal on 14 September 2009, expressing a wish that Parliament deal with this proposal as swiftly as possible.

Content of the proposal

The aim of the proposal is the approval on behalf of the Community of the Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance concluded on 23 November 2007 (the Convention)¹.

The Convention aims to ensure the effective recovery of family maintenance. Since the vast majority of such claims involve children and child support, the Convention is first and foremost a measure to protect children. The Convention covers many practical matters affecting the way in which international claims are pursued, for example language requirements, standard forms and administrative cooperation between Central Authorities with an emphasis on the use of new technologies to cut costs and delays. It lays down detailed rules on the recognition and enforcements in matters of maintenance obligations.

A case involving two EU Member States (except Denmark²) would be dealt with under the Maintenance Regulation³. On the other hand, a case involving an EU Member State and a non-Member State which is a State Party to the Convention would be dealt with under the Convention. The Community's relations with other State Parties would therefore be regulated by a harmonised set of rules.

The Commission considers that the Community has exclusive external competence in fields covered by the Maintenance Regulation. The proposal is therefore that the Convention be concluded by the Community, to the exclusion of the Member States, and that the Community alone deal with declarations to the Convention. One such declaration would align the scope of the whole Convention with that of the Maintenance Regulation⁴. Member States would then be bound by the Convention by virtue of the Community having concluded it.

¹ The proposal is based on Article 61(c) in conjunction with Articles 300(2) and (3).

² Denmark did not take part in the adoption of Regulation 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (the Maintenance Regulation); see recital 48 thereof. For the United Kingdom's failure to opt in and subsequent acceptance of the Maintenance Regulation, see Commission Decision 2009/451/EC of 8 June 2009, OJ L 149/73.

³ This is ensured by the disconnection clause contained in Article 51(4) of the Convention. For the date of application of the Maintenance Regulation, see Article 76 thereof. For the date of entry into force of the Convention, see its Article 60(1).

⁴ Recital 11 of the Maintenance Regulation.

The Commission also proposes to align the date by which the Member States must notify to it their designated Central Authorities under the Convention with the date by which Member States must communicate information on contact details and languages under the Maintenance Regulation, which is 18 September 2010¹. The Commission would centralise this information and pass it on the Permanent Bureau of the Hague Conference.

Approach of the rapporteur

As your rapporteur, I commend the proposal to the Committee and recommend a vote in favour of it, given that the Convention forms part of a fully-fledged and potentially worldwide legal framework dealing with family maintenance and child support².

¹ Article 71(1) of the Maintenance Regulation and Article 3 of the Proposal for a Council Decision.

² See in particular the Protocol on the Law Applicable to Maintenance Obligations, concluded on the same day as the Convention.

PROCEDURE

Title	International recovery of child support and other forms of family maintenance
References	COM(2009)0373 – C7-0156/2009 – 2009/0100(CNS)
Date of consulting Parliament	14.9.2009
Committee responsible Date announced in plenary	JURI 17.9.2009
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 17.9.2009
Not delivering opinions Date of decision	LIBE 3.9.2009
Rapporteur(s) Date appointed	Jiří Maštálka 2.9.2009
Discussed in committee	10.11.2009 2.12.2009
Date adopted	28.1.2010
Result of final vote	+: 22 -: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Sebastian Valentin Bodu, Christian Engström, Marielle Gallo, Lidia Joanna Geringer de Oedenberg, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Jiří Maštálka, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Alexandra Thein, Cecilia Wikström
Substitute(s) present for the final vote	Piotr Borys, Sajjad Karim, Vytautas Landsbergis, Kurt Lechner, Eva Lichtenberger, Toine Manders, Arlene McCarthy, Angelika Niebler, Georgios Papastamkos