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*Plenary sitting*

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**A9-0177/2022**

16.6.2022

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## **RECOMMENDATION**

on the draft 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 (13494/2021 – C9-0465/2021 – 2021/0208(NLE))

Committee on Legal Affairs

Rapporteur: Sabrina Pignedoli

### ***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.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft 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  
(13494/2021 – C9-0465/2021 – 2021/0208(NLE))**

**(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (13494/2021),
  - having regard to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (13494/2021 ADD 1),
  - having regard to the request for consent submitted by the Council in accordance with Article 81(2), point (a), and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C9-0465/2021),
  - having regard to Rule 105(1) and (4) and Rule 114(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Legal Affairs (A9-0177/2022),
1. Gives its consent to the accession of the European Union to the Convention;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.

## EXPLANATORY STATEMENT

The Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters under the auspices of the Hague Conference on Private International Law was concluded on 2 July 2019.

The European Union, represented by the Commission, participated actively in the negotiations leading to the adoption of the Convention and the Parliament, through its Committee on Legal Affairs, constantly expressed its support for this effort and its goals.

Given the current absence of a comprehensive international framework for the recognition and enforcement of foreign judgments in civil and commercial matters, EU citizens and businesses seeking to have such judgments issued in the Union recognised and enforced in a non-Union country face an unclear legal landscape.

The fallout of this confused context is worsening due to the growth in international trade and investment flows.

The solution to these issues depends on the accession of countries around the Globe to the predictable system of cross-border recognition and enforcement of judgments in civil or commercial matters offered by the Convention.

In this context and in the light of the trade between the EU and the US, the signature of the Convention by the latter appears remarkable and could pave the way, if followed by ratification, to a transatlantic trade in which businesses no longer have to rely solely on the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958.

Apart from this specific relationship, the long-standing and overarching aim of legal certainty for citizens and businesses should lead the EU to a swift accession to the Convention that can set an example for other countries to join.

In this regard, nevertheless, caution should be exercised in assessing whether the principles of rule of law and the procedural rights of the parties are fully observed in the third countries acceding to the Convention. Should that not be the case, the EU, by not objecting to the establishment of relations with them under Article 29(2) of the Convention, would open its legal order to the recognition and enforcement of judgments that do not guarantee the respect for those values. Given the sensitivity of the matter, from the outset the Rapporteur expected the Commission to respect Article 218(6) TFEU and submit proposals for Council decisions to raise or not raise an objection under Article 29 of the Convention to each and every notification for accession by third countries. This course would also ensure the smooth implementation of the Convention, by preventing any refusals to apply it by the Member States based on a procedural flaw. This would ultimately secure the legal certainty at the international level that the Convention aims at achieving.

The Legal Service of the Parliament was asked to provide an opinion on this institutional issue. The opinion confirmed the position of the Rapporteur. As a result, the Chair of the Committee on Legal Affairs wrote a formal letter to Commissioner Reynders asking to

formally commit the Commission to comply with Article 218(6) TFEU in relation to every accession by third countries.

Commissioner Reynders subsequently informed the Committee of its own observation that "*in the Council, it was decided to separate that question from the process of acceding to the Judgments Convention and to continue these discussions in a more horizontal manner*".

Commissioner Reynders also informed the Committee that its "*legal view is that the specific situation set out in Article 29 of the Judgments Convention, which provides for the establishment of treaty relations as the default situation - subject to possible objections, implies that the decision to be made by the EU is whether to object to the accession of a third country*". In the Commission view, decisions under Article 218 TFEU are required only where the EU intends to object to the establishment of such treaty relations, in line with its obligation to implement the EU's obligation under international law in good faith.

Commissioner Reynders therefore committed to consistently inform both the European Parliament and the Council of each intended accession of a third country to the Judgments Convention, with a view to discussing whether an objection should be considered. The Commissioner further committed to take full account of the views expressed in the European Parliament and the Council when deciding whether to propose a decision for an objection.

The Rapporteur does not agree with the arguments put forward by the Commission and still considers that the Commission should fully respect the provisions of the Treaties while deciding on the accession of third countries to the Convention. Following the correct procedure would guarantee the full involvement of the Parliament in the procedure and secure its oversight role over the Commission. The Rapporteur wishes to underline the horizontal nature of such institutional issue and its likelihood to emerge again for other Conventions that foresee this kind of third country accession's clause. She therefore agrees with the Council and separate that issue from the process of acceding to the Convention.

Therefore, she concluded that the Parliament should give its consent to the accession of the EU to the Convention as this instrument is of utmost importance for European citizens and businesses.

Finally, while understanding the complex set of constraints that features every negotiation, the Rapporteur would have preferred to have a declaration, similar to the one proposed by the Commission on non-residential leases (tenancies) of immovable property, to safeguard employees and consumers. Given the unamendable nature of the proposal and the fact that preventing the EU accession would produce even worse consequences, the Rapporteur proposes to the Committee on Legal Affairs to recommend that Parliament give its consent to the Council decision.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Annex to the Proposal for a Council Decision on the accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters	
<b>References</b>	13494/2021 – C9-0465/2021 – 2021/0208(NLE)	
<b>Date of consultation / request for consent</b>	13.12.2021	
<b>Committee responsible</b> Date announced in plenary	JURI 16.12.2021	
<b>Rapporteurs</b> Date appointed	Sabrina Pignedoli 30.3.2022	
<b>Discussed in committee</b>	25.4.2022	2.6.2022
<b>Date adopted</b>	14.6.2022	
<b>Result of final vote</b>	+: 22	–: 0
	0: 0	
<b>Members present for the final vote</b>	Pascal Arimont, Ilana Cicurel, Pascal Durand, Ibán García Del Blanco, Esteban González Pons, Virginie Joron, Sergey Lagodinsky, Gilles Lebreton, Maria-Manuel Leitão-Marques, Karen Melchior, Sabrina Pignedoli, Raffaele Stancanelli, Adrián Vázquez Lázara, Marion Walsmann, Tiemo Wölken, Lara Wolters, Javier Zarzalejos	
<b>Substitutes present for the final vote</b>	Brando Benifei, Emil Radev, Luisa Regimenti, René Repasi, Kosma Złotowski	
<b>Substitutes under Rule 209(7) present for the final vote</b>	François-Xavier Bellamy, Claude Gruffat	
<b>Date tabled</b>	16.6.2022	

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

22	+
ECR	Raffaele Stancanelli
ID	Virginie Joron, Gilles Lebreton
NI	Sabrina Pignedoli
PPE	Pascal Arimont, François-Xavier Bellamy, Esteban González Pons, Emil Radev, Luisa Regimenti, Marion Walsmann, Javier Zarzalejos
RENEW	Ilana Cicurel, Pascal Durand, Karen Melchior, Adrián Vázquez Lázara
S&D	Brando Benifei, Ibán García Del Blanco, Maria-Manuel Leitão-Marques, René Repasi, Lara Wolters
VERTS/ALE	Claude Gruffat, Sergey Lagodinsky

0	-

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention