# Hague Convention 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters: ratification by Austria and accession of Malta

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PURPOSE: to authorise Austria and Malta to accede to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters in the interest of the European Union.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters seeks to simplify the method of transmission of judicial and extrajudicial documents between the Contracting States. It thus facilitates judicial cooperation in cross-border civil and commercial litigation. The EU in its external relations has been promoting the accession of third countries to the Hague Service Convention. The Hague Service Convention is not open to participation by regional organisations. **As a result, the European Union is not in a position to accede to the Convention**.

Given that the Hague Service Convention is important for the European Union interests, the Council should authorise the Member States which had not concluded the Hague Service Convention before adoption of the Union measures to accede to the Convention in the interest of the European Union, subject to certain conditions. The Member States to which this decision is addressed are **Austria and Malta**.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 81(2) and 218(6)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: under this proposal for a Council Decision, Austria and Malta would accede to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters in the interest of the European Union.

**Purpose of the Convention:** the Convention indicates the channels to be used for the transmission from one Contracting State to another in the event of service abroad of judicial and extrajudicial act. The main channel of transmission, in lieu of consular and diplomatic channels, is through a Central Authority, who shall serve the documents or shall arrange to have them served. The Convention also provides for several other modes of transmission (for example, by post). It seeks to establish a system which, as far as possible, brings actual notice of the document to be served to the recipient in sufficient time to enable him to defend himself.

Lastly, the Convention facilitates proof that the service has been affected abroad, **by means of certificates contained in a uniform model.**

**EU competences:** this field falls into the exclusive external competence of the European Union, because of the adoption of internal Union legislation by means of Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. As a result, Member States cannot sign this Convention without being authorised to do so. 24 Member States were Parties to the Convention before the EU legislation was adopted. Austria and Malta remain to be authorised to accede to the Convention.

The Commission therefore proposes that the Council authorises Austria and Malta to accede to the Convention in the interest of the European Union. The Convention does not contain any provisions allowing the European Union itself to accede to the Convention.

**Declarations of the Contracting States:** the Convention provides for a possibility for the Contracting States to make declarations with regard to a number of its provisions. The EU Member States, Contracting States to the Convention, entered various declarations. The situation is not uniform, however. Against this backdrop, it is not reasonable to require the Member States concerned to make uniform declaration(s), if any. In conclusion, Austria and Malta should, when acceding to the Convention, make all appropriate declarations allowed under its provisions that they deem necessary. The text of such declarations should be attached to the Council decision.

**Entry into force:** Austria and Malta will take the necessary measures to deposit their instruments of accession before **31 December 2014**.

BUDGETARY IMPLICATION: the proposal has no implications for the European Union's budget.