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

2013/0177(NLE) - 24/11/2015 - Legislative proposal

PURPOSE: to authorise Austria to sign and ratify, and Malta to 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.

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 of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters** simplifies the methods of transmission of judicial and extrajudicial documents between the Contracting States. Thus, it facilitates judicial cooperation in cross-border civil and commercial litigation.

The Convention does not allow for participation by regional economic integration organisations such as the Union. As a result, the Union is not in a position to accede to the Convention. However, many countries, including the Member States except Austria and Malta, are parties to the Convention. The latter two states have expressed their interest in becoming parties. **It is in the interest of the Union that all Member States are parties to the Convention.** In addition, in the framework of Union external policy in the area of civil justice, the Union promotes accession to, and ratification of, the Convention by third States.

CONTENT: by this draft Decision, the Council **authorises Austria to sign and ratify, and Malta to 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 Union.

The Convention indicates the channels of transmission to be used when a judicial or extrajudicial document has to be transmitted from one Contracting State to the Convention to another Contracting State for the service in the latter. The Convention:

- **simplifies the method of transmission of judicial and extrajudicial documents**: the main channel of transmission, in lieu of consular and diplomatic channels, is through a Central Authority, which serves the documents or arranges to have them served. The Convention also provides for several alternative methods of transmission (e.g. postal channels);
- aims to establish a **system** which, to extent possible, brings actual notice of the document to be served to the recipient in sufficient time to enable him to defend himself;
- facilitates **proof** that the service has been affected abroad, by mean of certificates contained in a uniform model.

Austria shall take the necessary steps to deposit its instrument of ratification within a reasonable time and at the latest **by 31 December 2017**. After the Decision takes effect **Malta** shall notify the Ministry of

Foreign Affairs of the Kingdom of the Netherlands of the date on which the Convention will become applicable to Malta.

The United Kingdom and Ireland are bound by Regulation (EC) No 1393/2007 of the European Parliament and of the Council1 and are therefore taking part in the adoption and application of this Decision. On the other hand, **Denmark** is not taking part in it.