

Basic information	
2005/0251(AVC) AVC - Assent procedure (historic)	Procedure completed
Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH Subject 7.40.02 Judicial cooperation in civil and commercial matters	

Key players			
European Parliament	Committee responsible		Rapporteur
	JURI Legal Affairs		WALLIS Diana (ALDE)
	Committee for opinion		Rapporteur for opinion
	ECON Economic and Monetary Affairs		The committee decided not to give an opinion.
	LIBE Civil Liberties, Justice and Home Affairs		The committee decided not to give an opinion.
Council of the European Union	Council configuration	Meetings	Date
	Justice and Home Affairs (JHA)	2752	2006-10-05
	Justice and Home Affairs (JHA)	2725	2006-04-27
European Commission	Commission DG	Commissioner	
	Justice and Consumers	FRATTINI Franco	

Key events			
Date	Event	Reference	Summary
09/12/2005	Initial legislative proposal published	COM(2005)0639 	Summary
07/04/2006	Legislative proposal published	07591/2006	Summary
15/05/2006	Committee referral announced in Parliament		

12/07/2006	Vote in committee		Summary
18/07/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0250/2006	
06/09/2006	Debate in Parliament		
07/09/2006	Decision by Parliament	T6-0345/2006	Summary
07/09/2006	Results of vote in Parliament		
05/10/2006	Act adopted by Council after consultation of Parliament		
05/10/2006	End of procedure in Parliament		
26/10/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0251(AVC)
Procedure type	AVC - Assent procedure (historic)
Procedure subtype	Legislation
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1/2 EC Treaty (after Amsterdam) EC 061-
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/32655

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE374.092	16/05/2006	
Amendments tabled in committee		PE374.362	06/06/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0250/2006	18/07/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0345/2006	07/09/2006	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	07591/2006	07/04/2006	Summary

European Commission

Document type	Reference	Date	Summary
Initial legislative proposal	COM(2005)0639 	09/12/2005	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
Decision 2006/0719 OJ L 297 26.10.2006, p. 0001-0010	Summary

Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH

2005/0251(AVC) - 27/04/2006

The Council agreed to the text of a draft decision on the accession of the European Community to the Hague Conference on private international law (HCCH) which will be sent to the European Parliament for its assent (refer to Council document 7591/06).

At present, the Community enjoys only observer status in the HCCH. Full membership is necessary for two reasons. It would:

- § grant the Community a status consistent with its new role as a major international player in the field of civil judicial cooperation;
- § enable the Community to fully participate in the negotiation of conventions in areas of its competence by expressing its views and positions and ensuring consistency and coherence between its own rules and envisaged international instruments. Moreover, the Community as such rather than its Member States would be the subject of the rights and obligations stemming from Hague Conventions in areas of its competence.

The Hague Conference on private international law is a long-established international organisation with the objective of ensuring the progressive unification of the rules of private international law, mainly by negotiating and drafting international conventions (www.hcch.net).

Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH

2005/0251(AVC) - 07/04/2006 - Legislative proposal

This document presents the technical instrument by which the European Community accepts the Statute of the Hague Conference on Private International Law Council (HCCH). The text of the proposed Council Decision does not differ from that of the Commission's initial proposal (please refer to the summary of the previous initial proposal of 9 December 2005).

By participating in the Hague Conference, the European Community shall formally and without reservation accept the obligations arising from its membership of the Hague Conference on Private International Law, as set out in the Statute, and formally undertakes to fulfil the obligations upon it at the time of its accession.

In this context, a **Declaration of competence** of the European Community specifying the matters in respect of which competence has been transferred to it by its Member States:

- **Internal level:** the European Community has internal competence to adopt general and specific measures relating to private international law in various fields in its Member States. In respect of matters within the purview of the HCCH, the European Community notably has competence under Title IV of the EC Treaty to adopt measures in the field of judicial cooperation in civil matters having cross-border implications insofar as necessary for the proper functioning of the internal market (Articles 61(c) and 65 EC Treaty).

In areas which do not fall within its exclusive competence, the European Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the European Community. Any action by the European Community shall not go beyond what is necessary to achieve the objectives.

The European Community has made use of its competence by adopting a number of instruments under **Article 61(c) of the EC Treaty**, such as:

- § Council Regulation 1346/2000/EC of 29 May 2000 on insolvency proceedings;

- § Council Regulation 1348/2000/EC of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters;
- § Council Regulation 44/2001/EC of 22 December 2000 on jurisdiction, recognition and enforcement in civil and commercial matters;
- § Council Regulation 1206/2001/EC of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters;
- § Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes;
- § Council Regulation 2201/2003/EC of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000/EC;
- § Regulation 805/2004/EC of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

In addition, the European Community has competence in other fields which can be subject to conventions of the HCCH, as in the field of the internal market (Article 95 EC Treaty) or consumer protection (Article 153 EC Treaty). Furthermore, provisions on private international law can also be found in other Community legislation, notably in the area of consumer protection, insurance, financial services and intellectual property. Thus, the Community Directives affected by the Hague Convention on the Law Applicable to Certain Rights of Securities held with an Intermediary were adopted on the

basis of **Article 95 of the EC Treaty**.

- **External level:** even if there is no explicit reference to external competence in the EC Treaty, it results from the jurisprudence of the Court of Justice of the European Communities that the provisions of the EC Treaty referred to above constitute legal bases not only for internal acts of the Community, but also for the conclusion of international agreements by the Community. The Community may conclude international agreements whenever the internal competence has already been used in order to adopt measures for implementing common policies, as listed above, or if international agreement is necessary to obtain one of the European Community's objectives. The Community's external competence is exclusive to the extent to which an international agreement affects internal Community rules or alters their scope. Where this is the case, it is not for the Member States but for the Community to enter into external undertakings with third States or International Organisations. An international agreement can fall entirely or only to some extent within exclusive Community competence.

- **Derogations:** Community instruments are normally binding for all Member States. Concerning Title IV of the EC Treaty which comprises the legal basis for judicial cooperation in civil matters, a special regime applies to Denmark, Ireland and the United Kingdom. Measures taken under Title IV of the EC Treaty are not binding upon or applicable in Denmark. Ireland and the United Kingdom take part in legal instruments adopted under Title IV of the EC Treaty if they notify the Council to that effect. Ireland and the United Kingdom have decided to opt in on all measures provided.

- **Evolution:** the extent of competence which the Member States have transferred to the European Community pursuant to the EC Treaty is, by its nature, liable to continuous development. The European Community and its Member States will ensure that any change in the Community's competences will be promptly notified to the Secretary-General of the HCCH as stipulated in the Statute.

Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH

2005/0251(AVC) - 09/12/2005 - Initial legislative proposal

PURPOSE : to enable the European Community to accede to the Hague Conference on Private International Law (HCCH).

PROPOSED ACT : Council Decision.

CONTENT : the objective of the Hague Conference on Private International Law (HCCH) is to work for the progressive unification of the rules of private international law. Since the entry into force of the Treaty of Amsterdam, the Community has competence to adopt measures in the field of judicial co-operation in civil matters having cross-border implications insofar as necessary for the proper functioning of the internal market. The Community has exerted this competence by adopting a number of instruments, many of which coincide, partially or fully, with the areas of work of the HCCH.

The adoption of these internal instruments entailed an implicit transfer of external competences in the areas covered by them from the Member States to the Community. In view of these newly acquired external powers and its increasing involvement in the work of the organisation, it became necessary for the Community to become a full member of the HCCH. At present, the Community enjoys only observer status in the organisation. Full membership of the Community in the HCCH is essential for two reasons:

- from a political point of view, membership would grant the Community a status consistent with its new role as a major international player in the field of civil judicial cooperation;
- from a legal point of view, membership would enable the Community to fully participate in the negotiations of conventions in areas of its competence by expressing its views and positions and ensuring the consistency and coherence between its own rules and envisaged international instruments.

Moreover, the Community as such rather than its Member States would be the subject of the rights and obligations stemming from Hague Conventions in areas of its competence.

Lastly, since the Statute of the HCCH contemplates only membership of States, not of international organisations, Community accession requires amendments to the Statute. Consequently, the amendments of the Statute would enter into force on 1st of July 2006 and the formal decision to admit the Community to the HCCH would be taken in the first week of July 2006. It is necessary to launch the procedure for a Council decision on the accession of the Community to the HCCH already at this time in order to ensure that the Community is ready to accede by the beginning of July 2006. The Community will then be able to deposit its instrument of accession as soon as the HCCH has taken the formal decision to admit it.

Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH

2005/0251(AVC) - 05/10/2006 - Final act

PURPOSE: to enable the Community to accede to the Hague Conference on Private International Law (HCCH).

LEGISLATIVE ACT: Council Decision 2006/719/EC on the accession of the Community to the Hague Conference on Private International Law.

CONTENT: the objective of the Hague Conference on Private International Law (HCCH) is to work for the progressive unification of the rules of private international law. The HCCH has to date adopted a substantial number of conventions in different fields of private international law.

Since the entry into force of the Treaty of Amsterdam, the Community has competence to adopt measures in the field of judicial cooperation in civil matters having cross-border implications insofar as necessary for the proper functioning of the internal market. The Community has exerted this competence by adopting a number of instruments, many of which coincide, partially or fully, with the areas of work of the HCCH.

Given that it is essential that the Community be granted a status that corresponds to its new role as a major international player in the field of civil judicial cooperation and that it be able to exercise its external competence by participating as a full member in the negotiations of conventions by the HCCH in areas of its competence, the Council has approved the accession of the European Community to the HCCH.

It should be noted that Denmark shall not participate in the adoption of this decision.

Judicial co-operation in civil matters: accession of the European Community to the Hague Conference on Private International Law HCCH

2005/0251(AVC) - 07/09/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Diana **WALLIS** (ALDE, UK) and gave its assent to the proposed decision on the accession of the EC to the Hague Conference on Private International Law.