COUNCIL DECISION (EU) 2019/305

of 18 February 2019

authorising Austria, Cyprus, Croatia, Luxembourg, Portugal, Romania and the United Kingdom to accept, in the interest of the European Union, the accession of the Dominican Republic to the 1980 Hague Convention on the Civil Aspects of International Child Abduction

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with point (b) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ([1]),

Whereas:

(1) The European Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.

(2) The Council adopted Regulation (EC) No 2201/2003 ([2]) ('Brussels IIa Regulation'), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure the protection of rights of access and rights of custody.

(3) The Brussels IIa Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention') which establishes, at international level, a system of obligations and cooperation among contracting states and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.

(4) All Member States of the Union are party to the 1980 Hague Convention.

(5) The Union encourages third states to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on private international law.

(6) A common legal framework applicable between Member States of the Union and third states could be the best solution for sensitive cases of international child abduction.

(7) The 1980 Hague Convention stipulates that it applies between the acceding state and contracting states that have declared their acceptance of the accession.

(8) The 1980 Hague Convention does not allow regional economic integration organisations, such as the Union, to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding state.

(9) Pursuant to Opinion 1/13 of the Court of Justice of the European Union ([3]), declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.

(10) The Dominican Republic deposited its instrument of accession to the 1980 Hague Convention on 11 August 2004. The 1980 Hague Convention entered into force for the Dominican Republic on 1 November 2004.

([1]) Opinion of 31 January 2019 (not yet published in the Official Journal).
([2]) Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).
([3]) ECLI:EU:C:2014:2303.

(11) All Member States, with the exception of Austria, Cyprus, Croatia, Denmark, Luxembourg, Portugal, Romania and the United Kingdom, have already accepted the accession of the Dominican Republic to the 1980 Hague Convention. An assessment of the situation in the Dominican Republic has led to the conclusion that Austria, Cyprus, Croatia, Luxembourg, Portugal, Romania and the United Kingdom are in a position to accept, in the interest of the Union, the accession of the Dominican Republic under the terms of the 1980 Hague Convention.

(12) Austria, Cyprus, Croatia, Luxembourg, Portugal, Romania and the United Kingdom should therefore be authorised to deposit their declarations of acceptance of the accession of the Dominican Republic to the 1980 Hague Convention in the interest of the Union in accordance with the terms set out in this Decision. The other Member States of the Union which have already accepted the accession of the Dominican Republic to the 1980 Hague Convention should not deposit new declarations of acceptance as the existing declarations remain valid under public international law.

(13) The United Kingdom and Ireland are bound by the Brussels IIa Regulation and are taking part in the adoption and application of this Decision.

(14) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. Austria, Cyprus, Croatia, Luxembourg, Portugal, Romania and the United Kingdom are hereby authorised to accept the accession of the Dominican Republic to the 1980 Hague Convention in the interest of the Union.

2. Member States referred to in paragraph 1 shall, no later than 19 February 2020, deposit a declaration of acceptance of the accession of the Dominican Republic to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

'[Full name of MEMBER STATE] declares that it accepts the accession of the Dominican Republic to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2019/305'.

3. Member States referred to in paragraph 1 shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of the Dominican Republic to the 1980 Hague Convention and shall communicate the text of those declarations within two months of their deposit to the Commission.

Article 2

This Decision shall take effect on the date of its notification.

Article 3

This Decision is addressed to Austria, Cyprus, Croatia, Luxembourg, Portugal, Romania and the United Kingdom.

Done at Brussels, 18 February 2019.

For the Council
The President
N. BĂDĂLĂU