Council of the European Union

Brussels, 16 July 2021
(OR. en)

10851/21
ADD 2

Interinstitutional File:
2021/0208(NLE)

JUSTCIV 118
IA 141

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2021) 279 final
Subject:	REGULATORY SCRUTINY BOARD OPINION 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

Delegations will find attached document SEC(2021) 279 final.

Encl.: SEC(2021) 279 final

EUROPEAN COMMISSION

Brussels, 23.4.2021
SEC(2020) 279 final

REGULATORY SCRUTINY BOARD OPINION

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

{SWD(2021) 192 final}
{SWD(2021) 193 final}

Ref. Ares(2021)2727977 - 23/04/2021

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: **Impact assessment / Accession by the European Union to the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters**

Overall opinion: POSITIVE

(A) Policy context

The 2019 Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial matters (the Judgments Convention) establishes an international system for the recognition and enforcement of foreign judgments on civil and commercial cases.

This initiative proposes that the EU accedes to the Judgments Convention. This would regulate how third country judgments are recognised and enforced within the EU. It would also regulate how EU judgements are recognised and enforced in third countries.

(B) Summary of findings

The Board notes the additional useful written information provided and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

(1) The report does not distinguish or assess the preferred option in a clear way. It is therefore not sufficiently clear why it is chosen.

(C) What to improve

(1) The report should better explain the legal nature and remit of the Judgments Convention, and which countries are likely to join it. It should clarify the impact of the EU's accession to the Convention on other existing conventions (e.g. Lugano Convention, Choice of Court Convention) and on bilateral agreements between Member States and signatory countries.

This opinion concerns a draft impact assessment which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 08/010. E-mail: regulatory-scrutiny-board@ec.europa.eu

(2) The report should strengthen the rationale for the initiative by clarifying the impact of legal uncertainty concerning foreign judgments on EU companies' decisions to engage or not in international trade and investment. It should also be clearer on the problems that relate to the areas considered for possible exclusions (declarations).

(3) The report should better distinguish the preferred option in the section that describes the options, either by presenting it as a self-standing option or a distinct sub-option (under the option that considers different possible EU declarations). Subsequently, it should be assessed (and compared) along the other options to better substantiate the final choice of the preferred option. Although all four options have a similar cost-benefit outcome, the report should better explain what distinguishes them and what the preferred choice entails.

(4) The report should better integrate stakeholder opinions. It should be clear where views differ on specific issues. In particular, the report should clarify stakeholders' support for the different options, including the preferred one.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG may proceed with the initiative.

The DG must take these recommendations into account before launching the interservice consultation.

Full title	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
Reference number	PLAN/2020/5402
Submitted to RSB on	19/03/2021
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Reduced costs for EU businesses and citizens when seeking to have a European judgment recognised and enforced in another Contracting State	EUR 1.1 to 2.6 Million	During the reference period (2022-2026) a decrease of 10-20% of costs related to the recognition and enforcement of European judgments in the selected third countries is expected to occur in each case, bringing the total to the amount presented in the left row.
Shorter length of proceedings for EU businesses and citizens when seeking to have a European judgment recognised and enforced in another Contracting State	By 3 to 6 months	The current average length of proceedings for the recognition and enforcement of European judgments in third countries ranges between 9 to 23 months and is thus expected to decrease by 3 to 6 months.
Improved access to justice, increased legal certainty and predictability in international dealings	An improved and more predictable regime for recognition and enforcement of European judgments in other Contracting States. Likewise, the current system will improve in many EU Member States.	Non quantifiable Beneficiaries: EU businesses and citizens Businesses and citizens from outside the EU will also benefit from an improved system for recognition and enforcement of third-country judgments in many Member States
Indirect benefits		
Increase in international	Between 0.3% and 1.6%	For the reference period (2022-2026) trade in goods and services as well as

trade and investment		foreign direct investment with the selected third countries is expected to increase with figures of between 0.3% and 1.6%. Beneficiaries: Mostly businesses engaged in in international trade and investment but indirect benefits expected to ultimately translate in improved economic growth and job creation
Judgments from outside the EU will be recognised and enforced only where they are in line with EU fundamental principles and respect the EU *acquis*	As the recognition and enforcement of judgments under the Convention is subject to a number of refusal grounds and depends on the jurisdiction assumed by the court of origin, third-country judgments will only gain recognition and enforcement if in line with EU fundamental principles and *acquis*. The declaration excluding the recognition and enforcement of third-country judgments that ruled on commercial leases (tenancies) of immovable property situated in the EU ensures full compliance with the *acquis* (the Brussels Ia Regulation)	Non quantifiable Beneficiaries: EU businesses and citizens

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Implementation of the Convention	Direct costs	-	-	-	-	Negligible	-
	Indirect costs	-	-	-	-	Negligible	-
Application of the Convention	Direct costs	-	-	-	-	-	Negligible
	Indirect costs	-	-	-	-	-	Negligible

Electronically signed on 23/04/2021 10:57 (UTC+02) in accordance with article 11 of Commission Decision C(2020) 4482