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#### 'I/A' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	11969/21
Subject:	The 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters: Line to take concerning the accession of Georgia - Approval

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#### I. EXPLANATORY BACKGROUND

1. The Working Party in Civil Law Matters (General Questions) wishes to bring to the attention of Coreper the question of the EU's position<sup>1</sup> to the intention of Georgia to accede to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (hereafter 'the 1965 Hague Convention').

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<sup>1</sup> In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark does not take part in the establishment of the EU's position.

## II. THE 1965 HAGUE CONVENTION

2. With regard to the 1965 Hague Convention, the Union has external competence in so far as its provisions may affect the rules laid down in certain provisions of Union legislation, such as Regulation (EC) No 1393/2007,<sup>2</sup> or in so far as the accession of additional Member States to the Convention may affect common rules set out in Union legislation or alter their scope.
3. In the absence of a regional economic integration organisation (REIO) clause in the Convention, the EU cannot formally become a contracting party. Any actions that the EU wishes to take in respect of this Convention will have to go through the intermediary of the Member States.

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<sup>2</sup> See Council Decision (EU) 2016/414 of 10 March 2016 authorising the Republic of 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, OJ L 75, 22.3.2016, p. 1–2, recital (6) which refers in footnote 3 to Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, p. 79). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016D0414>

4. Pursuant to Article 28 of the Convention, any third State can accede to the Convention. However, such accession is only possible if no objection has been made to the accession by any State which was present at the Tenth Session of the Hague Conference of Private International Law and which has ratified the Convention.<sup>3</sup> Such an objection must be made within a period of six months after the date on which the accession was notified. It is important to note that a single validly made objection will not have merely bilateral effects between the objecting contracting party and the third State, but will result in preventing the third State from becoming a party to the Convention in relation to all contracting parties.<sup>4</sup>
5. According to information provided by the Hague Conference Permanent Bureau, this objection mechanism has never been used under the Convention since its entry into force more than 50 years ago.
6. The Depositary notified Georgia's accession to the 1965 Convention on 18 June 2021. The six-months deadline for any objection to the proposed accession expires on **18 December 2021**.<sup>5</sup>

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<sup>3</sup> See Article 28, second paragraph of the 1965 Hague Convention, which reads as follows: 'The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.' See also Article 26, first paragraph of the 1965 Hague Convention, which states that 'The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law'.

<sup>4</sup> See Article 28, second paragraph of the 1965 Hague Convention, cited in the previous footnote.

<sup>5</sup> According to information provided by the Depositary.  
[https://repository.overheid.nl/frbr/vd/004235/1/pdf/004235\\_Notificaties\\_94.pdf](https://repository.overheid.nl/frbr/vd/004235/1/pdf/004235_Notificaties_94.pdf)

7. According to the Commission's information, Georgia has appointed its Central Authority under the 1965 Convention and published the relevant contact details and practical information on the HCCH website. Furthermore, the objections and declarations made by Georgia are in line with the Convention. According to the Commission, due to the nature of this Convention which does not require further implementation for its application, no other assessment is needed.
8. The three policy options available to the EU (which must act through the intermediary of its Member States in relation to this Hague Convention) are: (a) No objection; (b) Objection with conditions for lifting the objection or (c) Objection without conditions for lifting.

### **III. SUMMARY OF THE CONTRIBUTIONS BY THE WORKING PARTY ON CIVIL LAW MATTERS AND ITS RECOMMENDATION**

9. The Working Party on Civil Law Matters (General Questions) discussed the accession of Georgia to the 1965 Hague Convention on 15 September. It appeared that the required qualified majority of delegations considered that there are no fundamental obstacles related to the civil law area which could lead to an objection to the accession of Georgia to the 1965 Hague Convention. The Commission shares the same views.
10. The Working Party on Civil Law Matters (General Questions), therefore, is recommending to Coreper that the European Union should not object to the accession of Georgia to the 1965 Hague Convention.

### **IV. CONCLUSION**

11. **In view of the above, the Permanent Representatives Committee is invited to recommend to the Council to approve that the line to be taken by the European Union is not to object to Georgia's accession to the 1965 Hague Convention.**