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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee (Part 2)/Council |
| No. prev. doc.: | 7181/23 |
| Subject: | The 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters: Line to take concerning the accession of Ukraine - Approval |

I. EXPLANATORY BACKGROUND

1. The Working Party on Civil Law Matters (General Questions) wishes to bring to the attention of Coreper the question of the European Union's position¹ to the ratification by Ukraine of the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (hereafter 'the 2019 Judgments Convention').²

¹ 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.

² The subject matters set out in the 2019 Hague Convention are governed internally by Article 81(2) TFEU.

II. THE 2019 JUDGMENTS CONVENTION

2. With regard to the 2019 Judgments Convention, the Union has exclusive external competence, pursuant to Article 3(2) TFEU, since the provisions of the Convention may affect or alter the scope of common EU rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.³
3. The Regional Economic Integration Organisation (REIO) clause in the 2019 Judgments Convention (Article 26) allows the European Union to formally become a contracting party.
4. Pursuant to Article 24 of the 2019 Judgments Convention, any third State can accede to the Convention. However, such accession creates treaty relations between two Contracting States only if neither of them has notified the depositary that the accession shall not have the effect of establishing treaty relations with the other.⁴ Such a notification must be submitted within a period of 12 months after the date on which the accession was notified.

³ Such as Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast).

⁴ See Article 29(1) of the 2019 Judgments Convention, which reads as follows: ‘The Convention shall have effect between two Contracting States only if neither of them has notified the depositary regarding the other in accordance with paragraph 2 or 3.’ See also Article 29(2) of the Convention, which states that ‘A Contracting State may notify the depositary, within 12 months after the date of the notification by the depositary referred to in Article 32(a), that the ratification, acceptance, approval or accession of another State shall not have the effect of establishing relations between the two States pursuant to this Convention’ and Article 29(3) which states that ‘A State may notify the depositary, upon the deposit of its instrument pursuant to Article 24(4), that its ratification, acceptance, approval or accession shall not have the effect of establishing relations with a Contracting State pursuant to this Convention’.

5. On 29 August 2022 the European Union acceded to the 2019 Judgments Convention.⁵ On the same day Ukraine deposited its instrument of ratification. The depositary notified Ukraine's ratification of the Convention on the 29 August 2022.⁶ In accordance with Article 29(2) of the Convention, the European Union can notify the depositary **by 29 August 2023** that the ratification by Ukraine does not have the effect of establishing treaty relations with the European Union.
6. According to the Commission's information, put forward in ST 14530/22 and presented orally in the Working Party on Civil Law Matters (General Questions) on 17 November 2022, Ukraine has put in place institutional and legislative framework that ensures respect for fundamental rights and the independence of the judiciary, which in turn would ensure a smooth systemic application of the 2019 Judgments Convention.
7. The two policy options as resulting from the 2019 Judgments Convention are: (a) No notification, with the effect of establishing treaty relations with the acceding State; or (b) Notification, with the effect of not establishing treaty relations with the acceding State.

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

8. The Working Party on Civil Law Matters (General Questions) discussed the ratification by Ukraine of the 2019 Judgments Convention on 19 October 2022, 17 and 30 November 2022, and on 1 and 24 February and 20 March 2023. Delegations considered that there are no fundamental obstacles related to the civil law area which could prevent the European Union from entering into treaty relations with Ukraine. The Commission shares the same views.

⁵ *Official Journal* L 187, 14.7.2022, p.4-15.

⁶ [013672_Notificaties_6.pdf\(overheid.nl\)](#)

9. The Working Party on Civil Law Matters (General Questions), therefore, recommends to Coreper that the European Union should not notify the depositary concerning the ratification by Ukraine of the 2019 Judgments Convention. The absence of a notification will have the effect of establishing treaty relations between the European Union and Ukraine, in accordance with Article 28 of the Convention.
10. This recommendation to approve a line to be taken in the case of Ukraine is without prejudice to the procedure to be followed in the future to establish the European Union's position concerning the accession of third States to such Hague Conventions which have the same accession mechanism as the 2019 Judgments Convention.

IV. CONCLUSION

In view of the above, the Coreper is invited to recommend to the Council that the line to be taken by the European Union is to establish treaty relations with Ukraine. Thus, the depositary should not be notified concerning the ratification by Ukraine of the 2019 Judgments Convention.
