



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 May 2008**

**9079/08**

**JUSTCIV 91**

**"I/A" ITEM NOTE**

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from : General Secretariat of the Council  
to : Coreper II/Council

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No. prev. doc.: 6562/1/08 REV 1 JUSTCIV 27 + COR 1  
No. Cion prop.: 10868/03 JUSTCIV 99

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Subject : Draft Council Decision authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children and authorising certain Member States to make a declaration on the application of the relevant internal rules of Community law

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1. On 19 June 2003 the Commission submitted to the Council a proposal for a Decision authorising the Member States to ratify, or accede to, in the interest of the European Community, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children (the 1996 Hague Convention)<sup>1</sup>.

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<sup>1</sup> Document 10868/03 JUSTCIV 99.

2. This proposal was submitted in order to meet a commitment made at the time of adoption of Council Decision 2003/93/EC of 19 December 2002 authorising the Member States, in the interest of the Community, to sign the 1996 Hague Convention<sup>1</sup>.
3. The United Kingdom and Ireland are taking part in the adoption and application of the proposed Decision.
4. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of the proposed Decision and is not bound by it or subject to its application.
5. The European Parliament was consulted on the proposal and delivered its opinion on 22 October 2003<sup>2</sup>.
6. The draft Council Decision was submitted to Coreper on 24 September 2003.<sup>3</sup> Due to difficulties concerning the arrangements on authorities under the 1996 Hague Convention (in relation to Gibraltar) the process of adoption of the draft Decision however came to a halt and the file was temporarily put aside.
7. In December 2007 an agreement was reached between the United Kingdom and Spain on arrangements relating to Gibraltar authorities in the context of mixed agreements and this allowed for a resumption of the work on the draft Decision.

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<sup>1</sup> OJ L 48, 21.2.2003, p. 3.

<sup>2</sup> OJ C 82 E, 1.4.2004, p. 307.

<sup>3</sup> Document 12995/03 JUSTCIV 163.

8. Against this backdrop the General Secretariat drew up a revised version of the draft Decision based on the latest text from 2003<sup>1</sup>. This revised version<sup>2</sup> took account of a number of developments which had taken place since the file was put aside in 2003. With the two enlargements of the European Union in 2004 and 2007 the group of Member States which had been authorised by Decision 2003/93/EC to sign the 1996 Hague Convention in the interest of the Community was no longer the same. Of the new Member States some had signed and ratified and/or acceded to the Convention. Some had also made the declaration which Member States were required to make by Article 2 of Decision 2003/93/EC.

9. In order for the draft Council Decision to reflect properly the situation at the beginning of 2008 with regard to signature and ratification and/or accession by the Member States and with regard to the declaration set out in Article 2 of Decision 2003/93/EC it proved necessary to change the title into Draft Council Decision authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention and authorising certain Member States to make a declaration on the application of the relevant internal rules of Community law. It was also necessary to redraft the Articles to a certain extent.

10. This revised version of the draft Council Decision was submitted to the Committee on Civil Law Matters (General Questions) at its meeting on 6 and 7 March 2008. On this occasion the Commission representative informed the Committee that the Commission could accept the revised version of the Commission's original proposal for a Council Decision from 2003. The Committee approved the revised draft Council Decision.

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<sup>1</sup> Document 14454/03 JUSTCIV 240 (the version reviewed by the legal/linguistic experts in November 2003).

<sup>2</sup> Document 6562/1/08 REV 1 JUSTCIV 27 + COR 1.

11. Coreper/Council is therefore invited to:
- (a) adopt as a "I/A" item the draft Council Decision authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children and authorising certain Member States to make a declaration on the application of the relevant internal rules of Community law as set out in document 7573/08 JUSTCIV 50 (text reviewed by the legal/linguistic experts), and
  - (b) take note that the Council Decision will be published in the L Series of the Official Journal of the European Union along with the text of the 1996 Hague Convention.
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