

All Member States of the European Union to accept the accession of Singapore and Andorra to the Hague Child Abduction Convention

On 15 June 2015, the Council of the European Union adopted a decision authorising certain Member States to accept, in the interest of the European Union, the accession of Andorra to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and an analogous decision regarding the acceptance of the accession of Singapore to the same Convention (publication of both decisions in the Official Journal is pending).

The two decisions rest on Opinion 1/13 of 14 October 2014. In this Opinion, the ECJ — having regard to Regulation 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 (Brussels IIa) — stated that the declarations of acceptance under the Hague Child Abduction Convention fall within the exclusive external competence of the Union.

Before the ECJ rendered this Opinion, some Member States had already accepted the accession of Andorra and Singapore. Presumably, they did so on the assumption that the European Union was not vested with an exclusive competence in this respect and that, accordingly, each Member State was free to decide whether to become bound by the Convention *vis-à-vis* individual acceding third countries, as provided by Article 38(3) of the Convention itself (for an updated overview of the accessions to the Convention and the acceptances thereof, see this page in the website of the Hague Conference on Private International Law).

The two Council decisions of 15 June 2015 are addressed only to the Member States that have not already accepted the accession of Andorra and Singapore, respectively. In fact, the Council preferred not to question in light of Opinion 1/13

the legitimacy of 'old' declarations made by Member States, and noted, with pragmatism, that a decision regarding the acceptance of the two accessions was only needed with respect to the remaining Member States.

In two identical statements included in the minutes of the above Council decisions (see [here](#) and [here](#)), the European Commission regretted that the decisions "cover only the Member States which have not yet accepted Andorra and Singapore", so that "the Member States which proceeded to accept third States' accessions in the past are not covered by any authorisation by the Union, which is in principle necessary pursuant to Article 2(1) TFEU" (according to the latter provision, "when the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts").

In its statements, the Commission also stressed "that any future acceptance by Member States of the accession of a third country must be covered by a prior authorisation".