

UK Ratifies Hague Choice of Court and Hague Maintenance Conventions

As reported on Twitter by *Pacta sunt servanda*, the UK has just (on 28 December 2018) signed and ratified the 2005 Hague Convention on Choice of Court Agreements and the 2007 Hague Convention on the International Recovery of Child Support and other Forms of Family Maintenance. Both Conventions currently apply to the UK by virtue of its membership of the European Union but may cease to do so once the UK leaves the EU on 29 March 2019. (The relevant notifications by the Dutch Ministry of Foreign Affairs can be found [here](#) and [here](#).)

Importantly, both conventions have been ratified only for the event of a Brexit scenario in which no withdrawal agreement with the EU has been reached and contain the following qualification:

In accordance with Article 29 of the 2005 Hague Convention/Article 59 of the 2007 Hague Convention, the United Kingdom is bound by the Convention by virtue of its membership of the European Union, which approved the Convention on behalf of its Member States. The United Kingdom intends to continue to participate in the 2005/2007 Hague Convention after it withdraws from the European Union.

The Government of the United Kingdom and the European Council have reached political agreement on the text of a treaty (the “Withdrawal Agreement”) on the withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community. Subject to signature, ratification and approval by the parties, the Withdrawal Agreement will enter into force on 30 March 2019.

The Withdrawal Agreement includes provisions for a transition period to start on 30 March 2019 and end on 31 December 2020 or such later date as is agreed by the United Kingdom and the European Union (the “transition period”). In accordance with

the Withdrawal Agreement, during the transition period, European Union law, including the 2005/2007 Hague Convention, would continue to be applicable to and in the United Kingdom. The European Union and the United Kingdom have agreed that the European Union will notify other parties to international agreements that during the transition period the United Kingdom is treated as a Member State for the purposes of international agreements concluded by the European Union, including the 2005/2007 Hague Convention.

*In the event that the Withdrawal Agreement is not ratified and approved by the United Kingdom and the European Union, however, the United Kingdom wishes to ensure continuity of application of the 2005/2007 Hague Convention from the point at which it ceases to be a Member State of the European Union. **The United Kingdom has therefore submitted the Instrument of Accession in accordance with Article 27(4) of the 2005 Hague Convention/Article 58(2) of the 2007 Hague Convention only in preparation for this situation. The Instrument of Accession declares that the United Kingdom accedes to the 2005 Hague Convention in its own right with effect from 1 April 2019.***

***In the event that the Withdrawal Agreement is signed, ratified and approved by the United Kingdom and the European Union and enters into force on 30 March 2019, the United Kingdom will withdraw the Instrument of Accession which it has today deposited.** In that case, for the duration of the transition period as provided for in the Withdrawal Agreement as stated above, the United Kingdom will be treated as a Member State of the European Union and the 2005 Hague Convention will continue to have effect accordingly.*

In the past, it had been questioned if the UK would be able to ratify these conventions before having left the EU (see, eg, Dickinson, ZEuP 2017, 539, 560), which, if the “No Deal” scenario became a reality, would leave a period of at least three months in which the conventions would not apply. By ratifying the Conventions now, the UK seems to have reduced this potential gap to two days as both conventions will enter into force for the UK on 1 April 2019.