COUNCIL DECISION (EU) 2021/2207

of 9 December 2021

authorising the Member States to accept, in the interest of the European Union, the accession of Bolivia to the 1980 Hague Convention on the Civil Aspects of International Child Abduction

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(3) in conjunction with Article 218(6), second subparagraph, point (b), thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) The Union has set as one of its aims the promotion of the protection of the rights of the child, as stated in Article 3 of the Treaty on European Union. Measures for the protection of children against wrongful removal or retention are an essential part of that policy.

(2) The Council adopted Regulation (EC) No 2201/2003 [2] ('Brussels IIa Regulation'), which aims to protect children from the harmful effects of wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure the protection of rights of access and rights of custody.

(3) The Brussels IIa Regulation complements and reinforces the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention') which establishes, at international level, a system of obligations and cooperation among Contracting States and between central authorities and aims at ensuring the prompt return of wrongfully removed or retained children.

(4) All Member States are party to the 1980 Hague Convention.

(5) The Union encourages third States to accede to the 1980 Hague Convention and supports the correct implementation of the 1980 Hague Convention by participating, along with the Member States, inter alia, in the special commissions organised on a regular basis by the Hague Conference on Private International Law.

(6) A common legal framework applicable between Member States and third States could be the best solution for sensitive cases of international child abduction.

(7) The 1980 Hague Convention stipulates that it applies between the acceding State and such Contracting States as have declared their acceptance of the accession.

(8) The 1980 Hague Convention does not allow regional economic integration organisations such as the Union to become party to it. Therefore, the Union cannot accede to that Convention, nor can it deposit a declaration of acceptance of an acceding State.

(9) According to Opinion 1/13 of the Court of Justice of the European Union [3], declarations of acceptance under the 1980 Hague Convention fall within the exclusive external competence of the Union.

(10) Bolivia deposited its instrument of accession to the 1980 Hague Convention on 13 July 2016. The 1980 Hague Convention entered into force for Bolivia on 1 October 2016.

(11) An assessment of the situation in Bolivia has led to the conclusion that the Member States are in a position to accept, in the interest of the Union, the accession of Bolivia under the terms of the 1980 Hague Convention.

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[1] Opinion of 25 November 2021 (not yet published in the Official Journal).

[2] Council Regulation (EC) 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, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

[3] ECLI:EU:C:2014:2303.

(12) The Member States should therefore be authorised to deposit their declarations of acceptance of the accession of Bolivia in the interest of the Union in accordance with the terms set out in this Decision.

(13) Ireland is bound by the Brussels IIa Regulation and is therefore taking part in the adoption and application of this Decision.

(14) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States are hereby authorised to accept the accession of Bolivia to the 1980 Hague Convention in the interest of the Union.

2. The Member States shall, no later than 10 December 2022, deposit a declaration of acceptance of the accession of Bolivia to the 1980 Hague Convention in the interest of the Union, to be worded as follows:

'[Full name of MEMBER STATE] declares that it accepts the accession of Bolivia to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, in accordance with Council Decision (EU) 2021/2207'.

3. The Member States shall inform the Council and the Commission of the deposit of their declarations of acceptance of the accession of Bolivia and shall communicate the text of those declarations within 2 months of their deposit to the Commission.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 3

This Decision shall apply in accordance with the Treaties.

Done at Brussels, 9 December 2021.

For the Council
The President
A. HOJS