

Council Decision of 4 December 2014 on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007 (2014/888/EU)

COUNCIL DECISION

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on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007

(2014/888/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2), in conjunction with point (a) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Union is working towards the establishment of a common judicial area based on the principle of mutual recognition of judicial decisions.
- (2) The Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (hereinafter referred to as the ‘Rail Protocol’), adopted in Luxembourg on 23 February 2007, makes a useful contribution to the regulation at international level in its area. It is therefore desirable that the provisions of that instrument which concern matters falling within the exclusive competence of the Union be applied as soon as possible.
- (3) The Commission negotiated the Rail Protocol on behalf of the European Community, for the parts falling within the exclusive competence of the Community.
- (4) Article XXII(1) of the Rail Protocol provides that Regional Economic Integration Organisations which have competence over certain matters governed by that Protocol may sign, accept, approve or accede to it.
- (5) Some of the matters governed by Council Regulation (EC) No 44/2001<sup>(1)</sup>, to be replaced as of 10 January 2015 by Regulation (EU) No 1215/2012 of the European Parliament and of the Council<sup>(2)</sup>, Council Regulation (EC) No 1346/2000<sup>(3)</sup>, Regulation (EC) No 593/2008 of the European Parliament and of the Council<sup>(4)</sup>, Directive 2008/57/EC of the European Parliament and of the Council<sup>(5)</sup> and Regulation (EC) No 881/2004 of the European Parliament and of the Council<sup>(6)</sup>, are also dealt with in the Rail Protocol.

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**Changes to legislation:** There are currently no known outstanding effects for the Council Decision of 4 December 2014 on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007 (2014/888/EU), Introductory Text. (See end of Document for details)

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- (6) The Community signed the Rail Protocol on 10 December 2009 following the adoption, on 30 November 2009, of Council Decision 2009/940/EC<sup>(7)</sup>.
- (7) The Union has exclusive competence over some of the matters governed by the Rail Protocol, while the Member States have competence over other matters governed by that instrument.
- (8) The Union should therefore approve the Rail Protocol.
- (9) Article XXII(2) of the Rail Protocol provides that, at the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation shall make a declaration specifying the matters governed by that Protocol, in respect of which competence has been transferred to that organisation by its Member States.
- (10) The Community made the required declaration regarding its competence at the time of the signature of the Rail Protocol. The Union should, however, renew that declaration at the time of approval of the Rail Protocol in order to correct a factual mistake and to take into account legislative developments and the accession of the Republic of Croatia to the Union.
- (11) Articles VI, VIII, IX and X of the Rail Protocol apply only where a Contracting State has made a declaration pursuant to Article XXVII of the Rail Protocol and under the conditions specified by that declaration. At the time of approval of the Rail Protocol, the Union should not make a declaration pursuant to Article XXVII(2) concerning the application of Article VIII, nor should it make any of the declarations pursuant to Article XXVII(1) and (3). The competence of the Member States concerning the rules of substantive law as regards insolvency will not be affected.
- (12) The United Kingdom and Ireland are bound by Regulation (EC) No 44/2001, to be replaced as of 10 January 2015 by Regulation (EU) No 1215/2012, Regulation (EC) No 1346/2000, Regulation (EC) No 593/2008, Directive 2008/57/EC and Regulation (EC) No 881/2004, and are therefore taking part in the adoption and application of this Decision.
- (13) 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:

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- (1) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([OJ L 12, 16.1.2001, p. 1](#)).
- (2) 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 ([OJ L 351, 20.12.2012, p. 1](#)).
- (3) Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings ([OJ L 160, 30.6.2000, p. 1](#)).
- (4) Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) ([OJ L 177, 4.7.2008, p. 6](#)).
- (5) Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community ([OJ L 191, 18.7.2008, p. 1](#)).
- (6) Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (Agency Regulation) ([OJ L 164, 30.4.2004, p. 1](#)).
- (7) Council Decision 2009/940/EC of 30 November 2009 on the signing by the European Community of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007 ([OJ L 331, 16.12.2009, p. 1](#)).

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