

## COUNCIL ACT

of 29 November 1996

drawing up, on the basis of Article K.3 of the Treaty on European Union, the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes

(97/C 151/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.3 (2) (c) thereof,

Whereas Article K.3 (2) (c) provides that conventions drawn up on the basis of Article K.3 of the Treaty on European Union may stipulate that the Court of Justice shall have jurisdiction to interpret their provisions and to rule on any disputes regarding their application in accordance with such arrangements as they may lay down,

HAS DECIDED on the drawing up of the Protocol the text of which is annexed, which has been signed today by the representatives of the Governments of the Member States of the European Union,

RECOMMENDS that it be adopted by the Member States in accordance with their respective constitutional requirements.

Done at Brussels, 29 November 1996.

*For the Council**The President*

N. OWEN

## ANNEX

## PROTOCOL

drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes

THE HIGH CONTRACTING PARTIES,

HAVE AGREED on the following provisions, which shall be annexed to the Convention:

*Article 1*

The Court of Justice of the European Communities shall have jurisdiction, pursuant to the conditions laid down in this Protocol, to give preliminary rulings on the interpretation of the Convention on the use of information technology for customs purposes.

*Article 2*

1. By a declaration made at the time of the signing of this Protocol or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Convention on the use of information technology for customs purposes pursuant to the conditions specified in either paragraph 2 (a) or paragraph 2 (b).

2. A Member State making a declaration pursuant to paragraph 1 may specify that either:

- (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the use of information technology for customs purposes if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment, or
- (b) any court or tribunal of that State may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Convention on the use of information technology for customs purposes if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

*Article 3*

1. The Protocol on the Statute of the Court of Justice of the European Communities and the Rules of Procedure of that Court of Justice shall apply.

2. In accordance with the Statute of the Court of Justice of the European Communities, any Member State, whether or not it has made a declaration pursuant to Article 2, shall be entitled to submit statements of case or written observations to the Court of Justice of the European Communities in cases which arise pursuant to Article 1.

*Article 4*

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol and communicate to him any declaration made pursuant to Article 2.

3. This Protocol shall enter into force 90 days after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality. However, it shall at the earliest enter into force at the same time as the Convention on the use of information technology for customs purposes.

*Article 5*

1. This Protocol shall be open to accession by any State that becomes a member of the European Union.

2. Instruments of accession shall be deposited with the depositary.

3. The text of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respect to any State that accedes to it 90 days after the date of deposit of its instrument of accession, or on the date of the entry into force of this Protocol if the latter has not yet come into force when the said period of 90 days expires.

*Article 6*

Any State that becomes a member of the European Union and accedes to the Convention on the use of information technology for customs purposes in accordance with Article 25 thereof shall accept the provisions of this Protocol.

*Article 7*

1. Amendments to this Protocol may be proposed by any Member State, being a High Contracting Party. Any

proposal for an amendment shall be sent to the depositary, who shall forward it to the Council.

2. Amendments shall be established by the Council, which shall recommend that they be adopted by the Member States in accordance with their respective constitutional requirements.

3. Amendments thus established shall enter into force in accordance with the provisions of Article 4.

*Article 8*

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the *Official Journal of the European Communities* the notifications, instruments or communications concerning this Protocol.

En fe de lo cual, los plenipotenciarios abajo firmantes suscriben el presente Protocolo.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne protokol.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Protokoll gesetzt.

Σε πίστωση των ανωτέρω, οι υπογράφοντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από το παρόν πρωτόκολλο.

In witness whereof the undersigned Plenipotentiaries have signed this Protocol.

En foi de quoi, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent protocole.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an bPrótacal seo.

In fede di che i plenipotenziari sottoscritti hanno apposto le loro firme in calce al presente protocollo.

Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder dit protocol hebben gesteld.

Em fé do que, os plenipotenciários abaixo assinados apuseram as suas assinaturas no final do presente protocolo.

Tämän vakuudeksi alla mainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän pöytäkirjan.

Till bevis på detta har undertecknade befullmäktigade ombud undertecknat detta fördrag.

Hecho en Bruselas, el veintinueve de noviembre de mil novecientos noventa y seis, en un único ejemplar, en lenguas alemana, danesa, española, finesa, francesa, griega, inglesa, irlandesa, italiana, neerlandesa, portuguesa y sueca, siendo cada uno de estos textos igualmente auténtico.

Udfærdiget i Bruxelles, den niogtyvende november nitten hundrede og seksoghalvfems, i ét eksemplar på dansk, engelsk, finsk, fransk, græsk, irsk, italiensk, nederlandsk, portugisisk, spansk, svensk og tysk, idet hver af disse tekster har samme gyldighed.

Geschehen zu Brüssel am neunundzwanzigsten November neunzehnhundertsechsunneunzig in einer Urschrift in dänischer, deutscher, englischer, finnischer, französischer, griechischer, irischer, italienischer, niederländischer, portugiesischer, schwedischer und spanischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

Έγινε στις Βρυξέλλες, στις είκοσι εννέα Νοεμβρίου χίλια εννιακόσια ενενήντα έξι, σε ένα μόνο αντίτυπο, στην αγγλική, γερμανική, γαλλική, δανική, ελληνική, ισπανική, ιταλική, ολλανδική, πορτογαλική, σουηδική και φινλανδική γλώσσα. Όλα τα κείμενα είναι εξίσου αυθεντικά.

Done at Brussels, this twenty-ninth day of November in the year one thousand nine hundred and ninety-six, in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

Fait à Bruxelles, le vingt-neuf novembre mil neuf cent quatre-vingt-seize, en un exemplaire unique, en langues allemande, anglaise, danoise, espagnole, finnoise, française, grecque, irlandaise, italienne, néerlandaise, portugaise et suédoise, chaque texte faisant également foi.

Arna dhéanamh sa Bhruiséil, an naoú lá is fiche de Shamhain, míle naoi gcéad nócha a sé, i scríbhinn bhunaidh amháin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phortaingéilis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag gach ceann de na téacsanna sin.

Fatto a Bruxelles, il ventinove novembre millenovecentonovantasei, in unico esemplare in lingua danese, finlandese, francese, greca, inglese, irlandese, italiana, olandese, portoghese, spagnola, svedese e tedesca, ciascun testo facente ugualmente fede.

Gedaan te Brussel, de negenentwintigste november negentienhonderd zesennegentig, opgesteld in één exemplaar in de Deense, de Duitse, de Engelse, de Finse, de Griekse, de Ierse, de italiaanse, de Nederlandse, de Portugese, de Spaanse en de Zweedse taal, zijnde elk der teksten gelijkelijk authentiek.

Feito em Bruxelas, em vinte e nove de Novembro de mil novecentos e noventa e seis, exemplar único, nas línguas alemã, dinamarquesa, espanhola, finlandesa, francesa, grega, inglesa, irlandesa, italiana, neerlandesa, portuguesa e sueca, fazendo igualmente fé todos os textos.

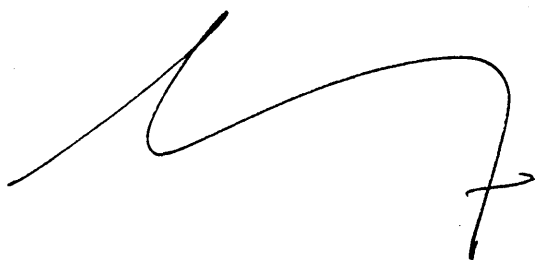
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Utfärdat i Bryssel den tjugonionde november nittonhundranittiosex i ett enda original på danska, engelska, finska, franska, grekiska, iriska, italienska, nederländska, portugisiska, spanska, svenska och tyska språken, vilka texter är lika giltiga.

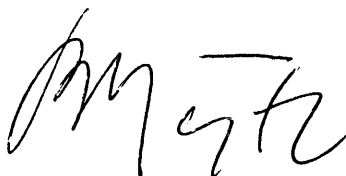
Pour le gouvernement du royaume de Belgique

Voor de regering van het Koninkrijk België

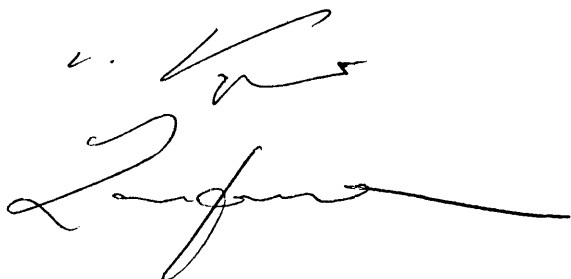
Für die Regierung des Königreichs Belgien



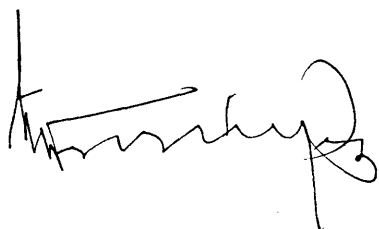
For regeringen for Kongeriget Danmark



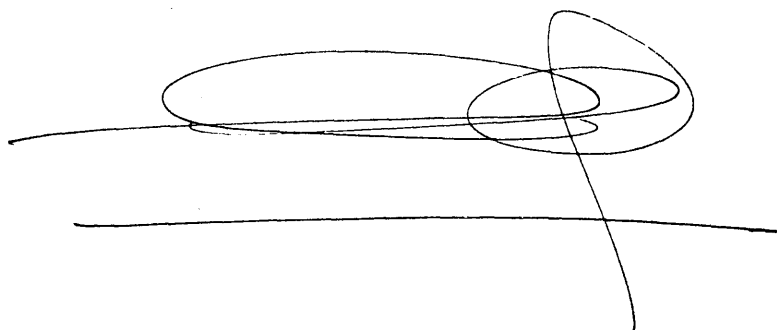
Für die Regierung der Bundesrepublik Deutschland



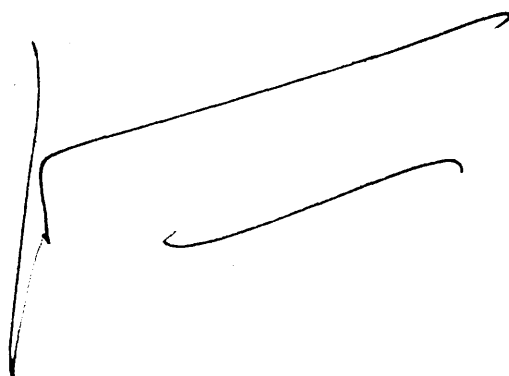
Για την κυβέρνηση της Ελληνικής Δημοκρατίας




Por el Gobierno del Reino de España




Pour le gouvernement de la République française



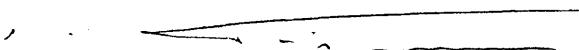
Thar ceann Rialtas na hÉireann  
For the Government of Ireland



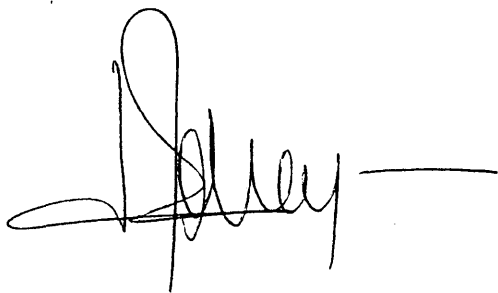
Per il governo della Repubblica italiana



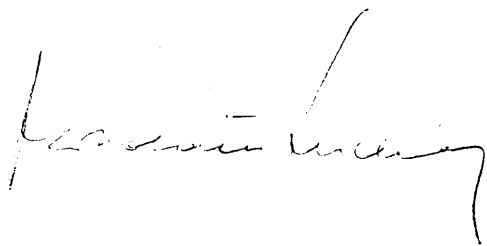
Pour le gouvernement du grand-duché de Luxembourg



Voor de regering van het Koninkrijk der Nederlanden



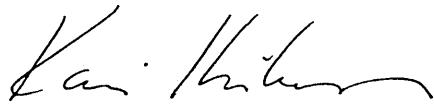
Für die Regierung der Republik Österreich



Pelo Governo da República Portuguesa



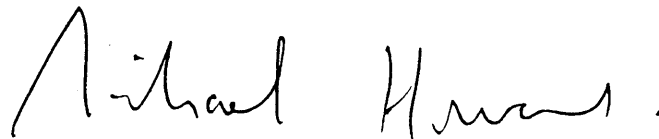
Suomen hallituksen puolesta  
På finska regeringens vägnar



På svenska regeringens vägnar



For the Government of the United Kingdom of Great Britain and Northern Ireland

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**DECLARATION**

**concerning the simultaneous adoption of the Convention on the use of information technology for customs purposes and the Protocol on the interpretation by way of preliminary rulings, by the Court of Justice of the European Communities, of that Convention**

The representatives of the Governments of the Member States of the European Union meeting within the Council,

At the time of the signing of the Council Act drawing up the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the use of information technology for customs purposes,

Wishing to ensure that the said Convention is interpreted as effectively and uniformly as possible as from its entry into force,

Declare themselves willing to take appropriate steps to ensure that the national procedures for adopting the Convention on the use of information technology for customs purposes and the Protocol concerning its interpretation are completed simultaneously at the earliest opportunity.

En fe de lo cual los plenipotenciarios abajo firmantes firman la presente declaración.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne erklæring.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter diese Erklärung gesetzt.

Σε πίστωση των ανωτέρω, οι υπογράφωντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από την παρούσα δήλωση.

In witness whereof the undersigned Plenipotentiaries have signed this Declaration.

En foi de quoi, les plénipotentiaires soussignés ont apposé leurs signatures au bas de la présente déclaration.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an Dearbhú seo.

In fede di che i plenipotenziari sottoscritti hanno apposto le loro firme in calce alla presente dichiarazione.

Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder deze verklaring hebben gesteld.

Em fé do que, os plenipotenciários abaixo assinados apuseram as respectivas assinaturas no final da presente declaração.

Tämän vakuudeksi alla mainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän julistuksen.

Till bevis på detta har undertecknade befullmäktigade ombud undertecknat denna förklaring.

Hecho en Bruselas, el veintinueve de noviembre de mil novecientos noventa y seis.

Udfærdiget i Bruxelles, den niogtyvende november nitten hundrede og seksoghalvfems.

Geschehen zu Brüssel am neunundzwanzigsten November neunzehnhundertsechsunneunzig.

Έγινε στις Βρυξέλλες, στις είκοσι εννέα Νοεμβρίου χίλια εννιακόσια ενενήντα έξι.

Done at Brussels on the twenty-ninth day of November in the year one thousand nine hundred and ninety-six.

Fait à Bruxelles, le vingt-neuf novembre mil neuf cent quatre-vingt-seize.

Arna dhéanamh sa Bhruiséil, an naoú lá is fiche de Shamhain, míle naoi gcéad nócha a sé.

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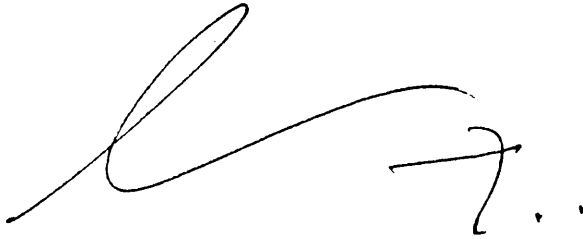
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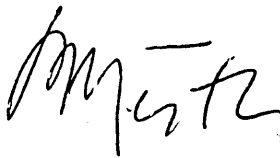
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Som skedde i Bryssel den tjugonionde november nittonhundra nittiosex.

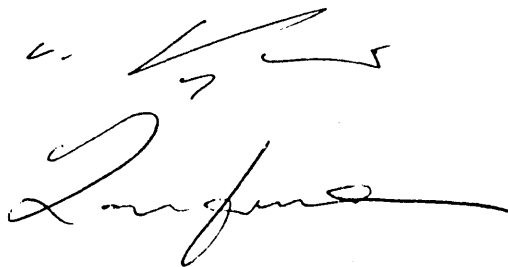
Pour le gouvernement du royaume de Belgique  
Voor de regering van het Koninkrijk België  
Für die Regierung des Königreichs Belgien



For regeringen for Kongeriget Danmark



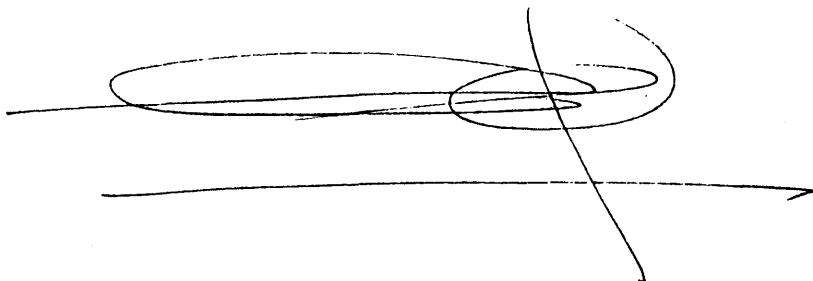
Für die Regierung der Bundesrepublik Deutschland



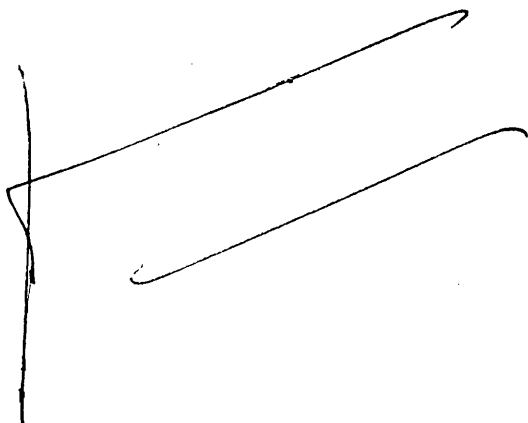
Για την κυβέρνηση της Ελληνικής Δημοκρατίας



Por el Gobierno del Reino de España



Pour le gouvernement de la République française

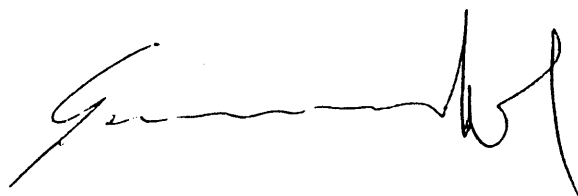


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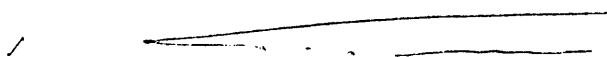
For the Government of Ireland



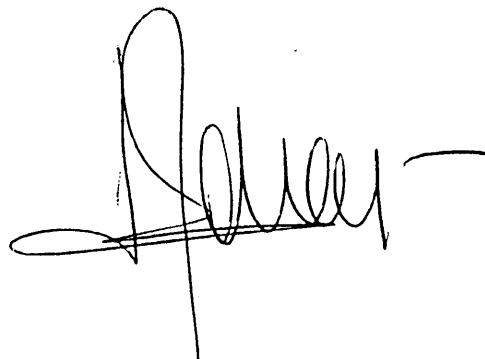
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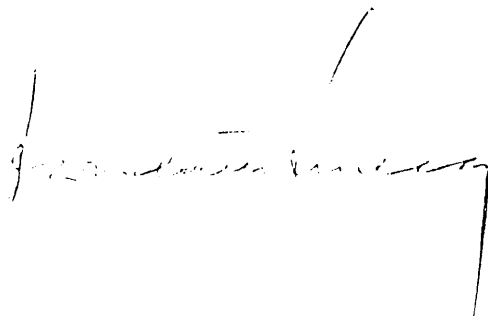
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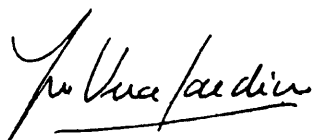
Voor de regering van het Koninkrijk der Nederlanden



Für die Regierung der Republik Österreich



Pelo Governo da República Portuguesa



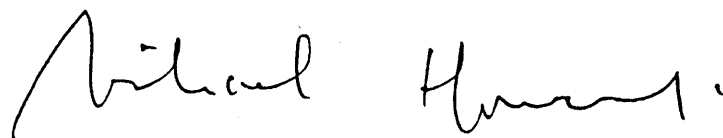
Suomen hallituksen puolesta  
På finska regeringens vägnar



På svenska regeringens vägnar



For the Government of the United Kingdom of Great Britain and Northern Ireland



### Declaration made pursuant to Article 2

At the time of the signing of this Protocol, the following declared that they accepted the jurisdiction of the Court of Justice of the European Communities in accordance with the procedures laid down in Article 2:

Ireland and the Portuguese Republic in accordance with the procedures laid down in Article 2 (2) (a);

The Federal Republic of Germany, the Hellenic Republic, the French Republic, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, in accordance with the procedures laid down in Article 2 (2) (b).

### DECLARATION

The Federal Republic of Germany, the Hellenic Republic, the Kingdom of the Netherlands and the Republic of Austria reserve the right to make provision in their national law to the effect that, where a question relating to the interpretation of the Convention on the use of information technology for customs purposes is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice.

For the Kingdom of Denmark and the Kingdom of Spain, the declaration(s) will be made at the time of adoption.

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