

EU Commission Confirms View That the EU Should Not Consent to UK Accession to the Lugano Convention 2007

6 May 2021

The EU Commission has published a [Communication](#) (dated 4 May 2021) to the EU Parliament and Council confirming its view that the UK should not be granted consent to accede to the Lugano Convention 2007 (“Lugano”) (the “Communication”).

The Communication is consistent with the view the EU Commission expressed previously in a meeting with EU diplomats on 12 April 2021 (see our [article of 22 April 2021](#)).

As noted in our [22 April article](#), the EU Council has the final say on behalf of the EU and so the Commission’s view is not determinative but might be telling of the EU’s eventual decision.

The reasoning set out in the EU Commission’s Communication is consistent with the reports coming out of the 12 April meeting that its objection is on the basis of the UK being neither a European Free Trade Association nor a European Economic Area country. As stated in the Communication, “*the Lugano Convention is a flanking measure of the internal market and relates to the EU-EFTA/EEA context. In relation to all other third countries the consistent policy of the European Union is to promote cooperation within the framework of the multilateral Hague Conventions*” (i.e., the 2005 Hague Choice of Court Convention and the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (the “Judgments Convention”)).

The EU Commission’s Communication acknowledges that Lugano expressly provides for accession of “*any other State*” but nevertheless notes that it is “*not aimed*” at “*all third countries*”. The EU Commission notes that only Poland has joined Lugano as a third country and this was on its path towards EU accession.

Our [22 April article](#) discusses the context of why the UK wishes to accede to Lugano, what needs to happen for it to do so, and why its accession is significant. The consequences of Lugano not applying in the UK are also discussed in our [11 November 2020 update on Post-Brexit Jurisdiction and Conflict of Laws Landscape](#) and in our

[8 April 2021 update on service of a claim form out of the English courts' jurisdiction in an EU member state.](#)

As stated in our [22 April article](#), the Judgments Convention could provide an international regime for the recognition and enforcement of judgments, and one point of interest in the Communication is the statement that the “*Commission is planning to propose EU conclusion of the 2019 Hague Judgments Convention in the near future*”. While this is encouraging, for this to be of relevance to English Court judgments, the UK would need to join the Judgments Convention in its own right; and even if the UK did join (which it may not), the impact of the Judgments Convention is unlikely to be felt for many years.

We await the EU Council's view on the UK's accession to Lugano. As we noted previously, the position as it currently stands on issues relating to jurisdiction and enforcement of judgments is complex and it is therefore important that legal advice on any such issues should be sought as early in the life of a dispute as possible.

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Please do not hesitate to contact us with any questions.



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