

Main fall-back international instruments in the field of judicial cooperation in civil and commercial matters in relation to the United Kingdom following its withdrawal from the EU

EU instrument	Fall-back international instrument	EU competence	Contracting Parties to the international instrument	Do contracting parties have to consent/can they object to the accession of the <u>UK</u> to the international instrument?	Main difference of the international instrument vis-à-vis the EU instrument	Other comments
Brussels Ia Regulation (Regulation(EU) 1215/2012)	2005 Hague Choice of Court Convention	EU-only agreement: it is signed ¹ and approved only by the EU	EU (except Denmark), Singapore, Mexico, Denmark, Montenegro	No	The Convention is limited to "international cases to exclusive choice of court agreements concluded in civil or commercial matters". Grounds for refusal of recognition or	The UK has ratified this Convention on 28 December 2018 with entry into force in 1 April 2019.

¹ Council Decision (2009/397/EC) of 26 February 2009 on the signing on behalf of the European Community of the Convention on Choice of Court Agreements (OJ L 133 of 22 May 2009 p. 1)

					<p>enforcement limited, but recognition and enforcement is not as "automatic" as under Brussels Ia.</p> <p>No central instance for interpreting the Convention.</p>	
<p>Brussels IIa Regulation (Council Regulation (EC) 2201/2003)</p>	<p>1980 Hague Convention on the Civil Aspects of International Child Abduction</p>		<p>100 Contracting Parties including all EU27 Member States and UK.²</p>	<p>Not relevant. UK is already a party to this Convention.</p>	<p>The Convention is the basis for the rules of the Brussels IIa Regulation on international child abduction between EU MS. The Regulation supplements the Convention as</p>	

² <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>

					far as child abductions between EU Member States are concerned.	
	Parental responsibility and measures of child protection: 1996 Hague Convention	Mixed agreement: some EU MS ³ (including UK) ratified "in the interest of the EU". Other MS were already Party to the Convention.	49 Contracting Parties including all EU27 Member States and UK ⁴ .	Not relevant. UK is already a party to this Convention.	The Convention includes rules on applicable law. This is not addressed in the Brussels IIa Regulation.	
	Recognition of divorces and legal separation: 1970 Hague Convention	The Convention falls within EU exclusive external competence even if there is no REIO	20 Contracting Parties including 12 EU27 Member States and UK. ⁵	Not relevant. UK is already a party to this Convention.		Member States wishing to become Contracting Party to this Convention will have to be authorized by the EU. The Convention provides for an acceptance procedure (Article 28 of the Convention).

³ Council Decision 2008/431/EC of 5 June 2008 authorising certain Member States to ratify, or accede to, in the interest of the European Community, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children and authorising certain Member States to make a declaration on the application of the relevant internal rules of Community law (OJ L 151, 11.6.2008, p. 36)

⁴ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=70>

⁵ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=80>

		clause allowing EU accession.				
Maintenance Regulation (Council Regulation (EC) 4/2009)	Recognition and Enforcement of Decisions Relating to Maintenance: 1973 Hague Convention	The Convention falls within EU exclusive external competence even if there is no REIO clause allowing EU accession.	24 Contracting Parties including 17 EU27 Member States and UK. ⁶	Not relevant. UK is already a party to this Convention.		This Convention is now considered outdated. EU policy is to encourage accessions of third countries to the 2007 Hague Convention.
	2007 Hague Convention on Child Support and Other Forms of Family Maintenance	EU only agreement: it is signed ⁷ and ratified ⁸ only by the EU.	EU (except Denmark). Other Contracting Parties are Albania, Belarus, Bosnia and Herzegovina, Brazil, Honduras, Kazakhstan, Montenegro,	No, as UK is a ratification country under public international law.	The Convention is similar to the Regulation (in particular, unlike the 1973 Maintenance Convention it includes also cooperation between Central	In relations between the Contracting States, this Convention replaces, subject to Article 56(2), the <i>Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations</i> (Article 48 of the Convention). The UK has signed and ratified this Convention on 28 December 2018 with entry into force in 1 April 2019.

⁶ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=85>

⁷ Council Decision 2011/220/EU of 31 March 2011 on the signing, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 93, 7.4.2011, p. 9). Date of signature by the EU: 6/4/2011.

⁸ Council Decision 2011/432/EU of 9 June 2011 on the approval, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 192, 22.7. 2011, p. 39). Date of approval by the EU: 9/4/2014.

			United States of America, Turkey, Ukraine ⁹		Authorities). Contrary to the EU Regulation, it does not include jurisdiction rules.	
Service of documents Regulation (Regulation (EC) 1393/2007)	1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters	The Convention falls within EU exclusive external competence even if there is no REIO clause allowing EU accession.	74 Contracting Parties including all EU27 Member States (except Austria) and UK. ¹⁰	Not relevant. UK is already a party to this Convention.	The Convention is similar to the Regulation. However, the Regulation offers a speedier procedure. ¹¹	Austria has not yet ratified this instrument ¹² . Silent acceptance procedure (Article 28 of the Convention).
Taking of evidence Regulation (Council)	1970 Hague Convention on the Taking of Evidence	The Convention falls under EU exclusive	61 Contracting Parties including all	Not relevant. UK is already a party to this Convention.	The Convention is similar to the Regulation,	Member States wishing to become Contracting Party to this Convention will have to be authorized by the EU.

⁹ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=131>

¹⁰ <https://www.hcch.net/en/instruments/conventions/status-table/print/?cid=17>

¹¹ The Regulation is currently being revised (Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents),

COM/2018/379 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1550854462645&uri=CELEX:52018PC0379>).

¹² Austria should have already ratified the Convention by 31 December 2017 (Article 2 of Council Decision (EU) 2016/414 of 10 March 2016 authorising the Republic of Austria to sign and ratify, and Malta to accede to, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, in the interest of the European Union, OJ L 75, 22.3.2016, p. 1).

Regulation (EC) 1206/2001)	Abroad in Civil or Commercial Matters	external competence even if there is no REIO clause allowing EU accession.	EU27 Member States (except Austria, Belgium and Ireland) and UK. ¹³		but the Regulation provides – as one of the most important innovations compared to the Convention - that the transmission of requests for the performance of taking of evidence is to be made directly between Member States' courts. ¹⁴	The Convention provides for an acceptance procedure (Article 39 of the Convention). UK has not yet accepted the accession of Croatia, Hungary, Lithuania, Malta and Romania.
Public documents Regulation (Regulation (EU)	1961 Hague Convention Abolishing the	The EU has decided not to exercise external	117 Contracting Parties including all	Not relevant. UK is already a party to this Convention.	The Convention replaces legalisation by	

¹³ <https://www.hcch.net/en/instruments/conventions/status-table/?cid=82>

¹⁴ The Regulation is currently being revised (Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, COM/2018/378 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1550854179644&uri=CELEX:52018PC0378>).

2016/1191)	Requirement of Legalisation for Foreign Public Documents	competence over the matters covered by the Regulation (Article 19(4) of the Public documents Regulation).	EU Member States		the apostille between Contracting Parties. The Regulation abolishes the apostille requirement for certain public documents and provides for additional simplifications regarding certified copies and translations.	
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