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JUSTCIV 82

'I/A' ITEM NOTE

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| From: | General Secretariat of the Council |
| To: | Coreper/Council |
| No. prev. doc.: | 7752/16 JUSTCIV 54 |
| No. Cion doc.: | 6799/16 |
| Subject: | Proposal for a Council Decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships - Agreement in principle - Request of the consent of the European Parliament |

1. On 16 March 2011, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships. The texts were extensively discussed and revised in the ensuing years.
2. After considering the revised compromise texts, the Council concluded, at its meeting of 3 December 2015, that it would not be possible to reach an EU-wide unanimous agreement for the adoption of the two regulations within a reasonable period of time.

3. In these circumstances, Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italia, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden subsequently addressed a request to the Commission indicating their wish to establish enhanced cooperation between themselves in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships, and that they expected the Commission to submit a proposal to the Council to that effect.
4. On 3 March 2016, the Commission presented to the Council a Proposal for a Council Decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships¹.
5. By letter to the Commission dated 18 March 2016, Cyprus indicated that it wished to participate in the establishment of enhanced cooperation; Cyprus reiterated this wish during the work of the Council.
6. In total, eighteen Member States have thus requested enhanced cooperation.

¹ On the same day, the Commission submitted two implementing regulations:

- a. a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (6801/16) and
- b. a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships (6802/16).

These proposals are subject to the procedure of Article 81(3) TFEU. The consultation of the European Parliament has been requested on 30 March 2016. The opinion of the European Parliament is not yet available.

7. It should be noted that although the Protocol on the position of the United Kingdom and Ireland and the Protocol on the position of Denmark are applicable in the area of jurisdiction, applicable law and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships, authorisation to proceed with enhanced cooperation is to be granted by the Council, acting by qualified majority of all EU Member States (see Article 329(1) of the Treaty on the Functioning of the European Union).
8. The proposal is based on Article 20 of the Treaty on the European Union and Article 326 to 334 of the Treaty on the Functioning of the European Union. The consent of the European Parliament is therefore required.
9. At its meeting on 20 April 2016, Coreper confirmed its agreement on a general approach to the proposed Decision and took note that the texts would be revised by the lawyer-linguists of the Council.
10. In the light of the above, Coreper/Council is invited to:
 - a. approve the text of the Proposal for a Council Decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships, as set out in document 8112/16 JUSTCIV 69².
 - b. decide to transmit the Proposal for a Council Decision to the European Parliament for consent in accordance with Article 329 of the Treaty on the Functioning of the European Union.

² Text revised by the lawyer-linguists of the Council.