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NOTE

From: Presidency

To: Council

No. prev. doc.: 7734/16, 7735/16, 9004/16

No. Cion doc.: 6801/16, 6802/16

Subject: a) Proposal for a Council Regulation implementing enhanced cooperation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes
b) Proposal for a Council Regulation implementing enhanced cooperation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships
- General approach

I. INTRODUCTION

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. Between December 2015 and March 2016, seventeen Member States¹ addressed requests 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 the Commission should submit a proposal to the Council to that effect.
4. On 3 March 2016, the Commission submitted 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 partnerships (6799/16) (the proposed Decision).
5. On the same day, the Commission submitted proposals for:
 - a) 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 Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships (6802/16).
6. By letter to the Commission dated 18 March 2016, Cyprus indicated its wish to participate in the establishment of enhanced cooperation; Cyprus reiterated this wish during the work of the Council.
7. In total, eighteen Member States have thus requested enhanced cooperation.

¹ Belgium, Bulgaria, Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden.

II. STATE OF PLAY

8. The three proposals were handled in parallel:
 - a) The Council reached an agreement on the proposed Decision (8112/16) on 12 May 2016. The request for consent of the European Parliament was sent on 13 May 2016.
 - b) After the examination of the texts of the proposed Regulations by the JHA Counsellors, a general approach on the proposed Regulations was reached at Coreper on 20 April 2016. After the revision of the texts of the proposed Regulations by the lawyer linguists of the Council, a general approach on the proposed Regulations was confirmed at Coreper on 1 June 2016. The Council requested the opinion of the European Parliament by its letter dated 29 March 2016, in accordance with Article 81(3) of the Treaty on the Functioning of the European Union.

III. CONCLUSION

9. In light of the above, the Council is invited
 - a) to confirm that there is a general approach on the proposed Regulations on matrimonial property regimes as set out in 8115/16 and registered partnerships as set out in 8118/16, and
 - b) to take note that the adoption of the Regulations will take place once the European Parliament has given its opinion.