



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 15 December 2008 (16.12)
(OR. fr)**

17102/08

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JUSTCIV 262

"I/A" ITEM NOTE

from : General Secretariat of the Council
to : Coreper/Council

No. prev. doc. : 15731/08 JUSTCIV 243 and 15736/08 JUSTCIV 245
No. Cion prop. : 5199/06 JUSTCIV 2

Subject : Council Regulation on jurisdiction, applicable law, recognition and enforcement
of decisions and cooperation in matters relating to maintenance obligations
– Adoption

1. By letter of 12 January 2006, the Commission transmitted to the Council a proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, based on Articles 61(c) and 67(2) of the Treaty establishing the European Community¹.

¹ 5199/06 JUSTCIV 2.

2. The European Parliament delivered its opinion on 13 December 2007¹. In view of the major changes made to the original Commission proposal during discussions within the Council's subordinate bodies, a decision was taken to reconsult the European Parliament² on the basis of the text approved by the Council (Justice and Home Affairs) on 24 October 2008. The European Parliament delivered its new opinion on 4 December 2008³.
3. The European Economic and Social Committee issued its opinion on 20 April 2006⁴ following non-compulsory consultation.
4. In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has given notice of its wish to take part in the adoption and application of the Regulation.
5. The United Kingdom is not taking part in the adoption and application of the Regulation since it did not exercise its right to take part under Article 3 of the above Protocol. However, the United Kingdom stated at the Council meeting (Justice and Home Affairs) on 28 November that it wished to take part in the application of the Regulation by accepting it after its adoption in accordance with Article 4 of the above Protocol.
6. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application, without prejudice to Article 3 of the Agreement of 19 October 2005 between the Community and Denmark.

¹ P6_TA(2007)0620.

² 14082/08 JUSTCIV 217.

³ P6_TA-PROV(2008)0574.

⁴ OJ C 185, 8.8.2006, p. 35.

7. With an eye to adoption of the draft Regulation by the end of 2008 the Council (Justice and Home Affairs) endorsed on 24 October 2008 an overall compromise aimed at resolving the last outstanding issues regarding substance and at reaching agreement on the enacting terms of the Regulation¹. Following that compromise, the Council (Justice and Home Affairs) approved the recitals and annexes² as an "A" item at its meeting on 27 and 28 November 2008.
8. The whole of the draft Regulation has subsequently been finalised by the legal/linguistic experts.
9. Coreper/Council is accordingly invited to adopt as a "I/A" item the Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, as set out in 15736/08 JUSTCIV 245.



¹ 14066/08 JUSTCIV 216 + COR 1 + ADD 1 + COR 1.

² 15728/08 JUSTCIV 241 and 15729/08 JUSTCIV 242.