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From:	General Secretariat of the Council
To:	Coreper/Council
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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 - Statement by the Polish delegation to be included to the minutes of the Council

The Polish delegation does not oppose the agreement in principle with regard to the draft *Council Decision authorizing 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.*

However, the Polish delegation would like to express its regret that the Council has not been given sufficient time to examine the issue of ensuring, in a clear and a legally certain manner, the further application between the Member State participating in the enhanced cooperation and the non-participating Member State of the international agreements previously concluded between them and falling within the scope of the proposed regulations implementing enhanced cooperation. The decision not to follow the precedent laid down in Article 19 of the *Council Regulation (EU) no 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation* can adversely affect in practice legal certainty as to the application of such agreements.

Furthermore, delegations still await the Council Legal Service opinion, announced at the COREPER meeting on 20 April, which was to clarify this subject.

The Polish delegation would also like to express its disappointment over the mandatory linking, included in Article 2 of the draft Council Decision, of the two implementing regulations concerning two different institutions of family law. This closes the way to join the enhanced cooperation for those Member States, which could consider accession to one of the implementing regulations. This can be viewed as inconsistent with the principle of openness of enhanced cooperation defined in Article 328 paragraph 1 of the Treaty on the Functioning of the European Union.

Therefore, the Polish delegation decides to abstain from supporting the agreement in principle on the Decision authorizing to undertake the enhanced cooperation.