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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Coreper/Council
No. prev. doc.:	8311/2/16 REV 2 JUSTCIV 82
No. Cion doc.:	6799/16
Subject:	Draft 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 - Adoption

I. BACKGROUND

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 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 (the proposed Decision).
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.

II. STATE OF PLAY

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. At its meeting on 12 May 2016, the Council reached an agreement on the proposed Decision (8112/16) and requested the consent of the European Parliament to the Decision. The letter requesting that consent was sent on 13 May 2016. The Parliament gave its consent on [7] June 2016.

III. CONCLUSION

11. In the light of the above, Coreper/Council is invited to call upon the Council to:

- adopt the Draft Council Decision² 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 69³.

² The European Parliament should adopt its opinion on the proposals for Regulations during its session on 22-23 June 2016. The proposals for Regulations should then be presented to Coreper/the Council for adoption on 27 June 2016.

³ Text revised by the lawyer-linguists of the Council.