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NOTE

From:	General Secretariat of the Council
To:	Working Party on Civil Law Matters (Brussels IIa)
No. prev. doc.:	10767/16 - COM(2016) 411 final
Subject:	Proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) - Opinion of the Consultative Working Party of Legal Services

Delegations will find attached the opinion of the Consultative Working Party of Legal Services regarding the above mentioned subject.



Brussels,

24 NOV. 2016

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

Proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

COM(2016) 411 final of 30.6.2016 - 2016/0190 (CNS)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 29 September and 27 October 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a Council Regulation recasting Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 resulted in the Consultative Working Party's establishing, by common accord, that the following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in recital 31, the proposed adding of the wording '*In particular, when presented with a decision given in another Member State and pronouncing divorce, legal separation or the annulment of a marriage which can no longer be challenged*', and of the final words '*and update their civil-status records accordingly*';
- in recital 41, the proposed adding of the wordings '*should be designated in all Member States*' and '*support parents and competent authorities in cross-border proceedings*';
- in Article 2(9), the proposed adding of the words '*institution or other body*';

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

- in Article 2(10), the proposed adding of the wording '*or by an agreement having legal effect under the law of the Member State where the child is habitually resident*';
- in Article 21, the proposed replacement of the reference currently made to '*paragraphs 2 to 8*' with a reference to '*Articles 22 to 26*';
- the proposed deletion of Article 27(2) of Regulation (EC) No 2201/2003;
- the entire text of Article 36(1);
- the entire text of Article 38(2);
- the proposed deletion of Article 42(1) of Regulation (EC) No 2201/2003;
- the proposed deletion of Article 51(b) of Regulation (EC) No 2201/2003;
- in Article 79, the proposed replacement of the word '*application*' with the words '*ex post evaluation*' and that of the words '*on the basis of*' with '*supported by*'.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.



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