



Brussels, 26 November 2015
(OR. en)

14655/15

Interinstitutional Files:

2011/0059 (CNS)
2011/0060 (CNS)

JUSTCIV 278

NOTE

From: Presidency
To: Council

No. prev. doc.: 14191/15, 14651/15, 14652/15
No. Cion doc.: 8160/11 and 8163/11

Subject:

- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes
- Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

- Political agreement

I. INTRODUCTION

1. By letters of 16 March 2011 the Commission transmitted to the Council 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.
2. The proposals aim to ensure a uniform system of rules on jurisdiction and applicable law, and the mutual recognition of decisions in matters of matrimonial regimes and the property consequences of registered partnerships within the European Union.

3. The proposals, which aim to reduce the uncertainty surrounding the property rights of international couples, are of fundamental importance for the daily lives of European citizens.
4. The United Kingdom and Ireland have made no notification under Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.
5. 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 on the Functioning of the European Union, Denmark does not take part in the adoption of the proposed Regulations and will not be bound by them or subject to their application.
6. During its meeting on 6 and 7 December 2012, the Council (JHA) agreed on political guidelines paving the way for future work¹.
7. During its meeting on 4 and 5 December 2014, the Council (JHA) decided to re-examine the possible compromise texts on the proposed Regulations as soon as possible and no later than the end of 2015, in order to assess whether the required unanimity can be achieved.²
8. The proposed Regulations are subject to a special legislative procedure based on Article 81(3) TFEU. The European Parliament was consulted and adopted two legislative resolutions on 10 September 2013.

¹ 16878/12 JUSTCIV 344.

² 16171/14 JUSTCIV 313.

II. STATE OF PLAY

9. Since July 2015, the Presidency has been holding bilateral contacts with all delegations in order to seek possible convergence on certain issues.
10. On 3 November 2015, the Presidency convened a (JHA) Counsellors meeting where it presented a number of amendments with a view to reaching a compromise in relation to the proposed Regulations.
11. In the light of the outcome of discussions with the Member States, the Presidency submitted two revised texts of the abovementioned proposals to COREPER on 25 November 2015.
12. At the COREPER meeting, most delegations stated that they could accept the texts proposed by the Presidency. They also stated that it was of utmost importance that the two regulations be adopted together.
13. The Polish and Hungarian delegations submitted a proposal for a new article to be added in the Regulation on matrimonial property regimes, as set out in document 14660/15. A large majority of delegations considered that proposal unacceptable. The Polish delegation also said that it had difficulties in accepting the text on registered partnerships.
14. A few delegations announced that parliamentary scrutiny reservations in relation to the proposals were still outstanding at national level.
15. The Presidency took note of the positions expressed by the Member States during the COREPER meeting³ and decided to submit a compromise package, as set out in documents 14651/15 and 14652/15, to the Council (JHA) on 3 and 4 December 2015, with a view to the adoption of a political agreement in relation to these two regulations.

³ See also documents 14658/15 and 14664/15.

III. CONCLUSIONS

16. Against this background, the Council is therefore invited:

- a) to adopt a political agreement on
 - i) the proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes; and
 - ii) the proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships;

as set out in documents 14651/15 and 14652/15 respectively;
- b) to initiate the legal-linguistic revision of the compromise texts; and
- c) to submit the texts, as finalised by the legal-linguistic experts, to the Council for formal adoption, as an 'A' item on the agenda of a forthcoming Council in December 2015.