

Towards an ‘enhanced cooperation’ among 17 Member States in the area of property regimes of international couples

This post has been written by Ilaria Aquironi.

On 2 March 2016 the European Commission adopted 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 partnerships (COM(2016) 108 final).

This stance comes close after the failure, in December 2015, to reach a political agreement among all Member States on the proposals relating to matrimonial property regimes and registered partnerships adopted in 2011.

Over the last few weeks, seventeen Member States – namely Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden – addressed a request to the Commission to propose a decision authorising the establishment of enhanced cooperation between themselves in this field.

As a response, the Commission adopted the aforementioned proposal for a Council decision authorising enhanced cooperation, as well as a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes (COM(2016) 106 final) and 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 (COM(2016) 107 final).

The adoption of the decision authorising enhanced cooperation requires a qualified majority of Member States within the Council and the consent of the European Parliament. The adoption of the two regulations implementing the enhanced cooperation requires unanimity by the participating Member States and

the consultation of the European Parliament.

The non-participating Member States will continue to apply their national private international law rules to cross-border situations dealing with matrimonial property regimes and the property consequences of registered partnerships, and will remain free to join the enhanced cooperation at any time.