

Rome III Regulation Published in the Official Journal

The Rome III regulation (see our most recent post here, with links to the previous ones) has been published in the Official Journal of the European Union n. L 343 of 29 December 2010. The official reference is the following: **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** (OJ n. L 343, p. 10 ff.).

Pursuant to its Art. 21(2), **the regulation should apply from 21 June 2012 in the 14 Member States which currently participate in the enhanced cooperation** (Belgium, Bulgaria, Germany, Spain, France, Italy, Latvia, Luxembourg, Hungary, Malta, Austria, Portugal, Romania and Slovenia).

Art. 18 (*Transitional provisions*) provides that “[the] regulation shall apply only to legal proceedings instituted and to agreements of the kind referred to in Article 5 [choice of the applicable law by the spouses] concluded as from 21 June 2012”. The same article stipulates that “effect shall also be given to an agreement on the choice of the applicable law concluded before 21 June 2012, provided that it complies with Articles 6 and 7” (rules governing material and formal validity of the agreement). As regards proceedings commenced in the court of a participating Member State before 21 June 2012, the regulation will be without prejudice to *pacta de lege utenda* concluded in accordance with the law of that State (Art. 18(2)).

In order to make national rules concerning formal and procedural requirements of an *optio legis* fully accessible, Art. 17 (applicable from 21 June 2011) requires the participating Member States to communicate any relevant information in respect thereof to the Commission, which will make them publicly available, in particular through the website of the European Judicial Network in civil and commercial matters.

(Many thanks to Federico Garau - Conflictus Legum blog - for the tip-off)