Civil judicial cooperation: jurisdiction, recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility

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The Council had a debate on a proposal for a Council Regulation on rules concerning applicable law in matrimonial matters (Rome III).

A large majority of Member States supported the objectives of this proposal for a Council

Regulation. Therefore, and owing to the fact that the unanimity required to adopt the regulation could not be obtained, the Council established that the **objectives of Rome III could not be attained within a reasonable period** by applying the relevant provisions of the Treaties. Work should continue with a view to examining the conditions and implications of possibly establishing **enhanced cooperation between Member States**.

To recall, the purpose of this Regulation is to provide a clear and comprehensive legal framework, covering both jurisdiction as well as applicable law rules in matrimonial matters, and allowing the parties a certain degree of autonomy in choosing the competent court and applicable law in case of divorce and legal separation.

Spouses would be allowed to choose a competent court or the law applicable to divorce. In the absence of a choice of law by the spouses, the text would introduce conflict-of-law rules. According to the proposal, there is a cascade of connecting factors: the divorce is governed by the law of the country of habitual residence of both spouses, failing that, by the law of the last habitual residence of the spouses if one of them still resides there; failing that, the law of the common nationality of the spouses or, failing that, by the law of the forum. The conflict-of-law rules of the proposal aim at ensuring that, wherever the spouses lodge their request for divorce, the courts of any Member State would normally apply the same substantive law, (therefore avoiding "forum shopping").