Member State/third country bilateral agreements: judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations

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This Commission Staff Working Document outlines some of the preparatory work carried out by the Commission when drawing up proposals for Regulations establishing a procedure for the negotiation and conclusion of bilateral agreements between Member States and third countries concerning sectoral matters and covering applicable law in contractual and non-contractual obligations and concerning sectoral matters and covering jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations, and applicable law in matters relating to maintenance obligations.

In particular, it reflects the **alternative solutions** presented to Member States' experts to discuss a mechanism for bilateral agreements of Member States with third states in the areas falling under exclusive external Community competence.

It should also be noted that the Commission published on 27 February another Staff Working Document (SEC(2009)275final), presenting the legal analysis of the Commission Legal Service on the legality of the Commission proposals. It summarizes the main statements from the Legal Service's opinion on the issue of the Member States' bilateral agreements with the third states in general and on the draft Commission proposals.

This Working document firstly examines the legal framework of the proposed Regulations and offers alterative solutions to deal with the current situation which range from the passive status quo (no specific measures to be taken) to specific authorisations (the Community may be given the possibility to authorise Member States to act in areas of exclusive Community competence provided that such authorisation is specific).

Other proposed actions include a legal instrument consisting of substantive criteria and a procedure to determine whether Member States should be authorised to conclude bilateral agreements on particular subject matters that fall wholly or partially under the Community's exclusive competence.