

# **Enhanced cooperation in the area of the law applicable to divorce and legal separation. Council Decision**

2010/0066(NLE) - 04/06/2010 - Legislative proposal

The Council reached a comfortable qualified majority agreement on authorising the first enhanced cooperation in the history of the EU. It concerns the law applicable to divorce and legal separation (Rome III). Ministers also decided to transmit the text to the European Parliament in order to obtain its consent to the enhanced cooperation.

In July 2006, the Commission adopted a proposal for a regulation amending regulation 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters (Rome III). Its aim was to develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments. The text was discussed during several presidencies but at its meeting in June 2008, the Council concluded that it was not possible - both then and in the near future - to reach unanimous agreement on the proposal as required by the Nice Treaty.

Given these circumstances, Greece, Spain, Italy, Hungary, Luxembourg, Austria, Romania and Slovenia addressed in July 2008 a request to the Commission indicating that they wished to establish enhanced cooperation between them in the area of applicable law in matrimonial matters and that they expected the Commission to submit a proposal to the Council to that end. Since then Greece has withdrawn from this request, and a further six member states have joined it: Bulgaria in August 2008, France in January 2009, Germany and Belgium in April 2010, Latvia and Malta in May 2010, Portugal in June 2010.

14 Member States will participate in the enhanced cooperation. Once they reach unanimous agreement, the regulation will set clear rules on how international couples can seek divorce or legal separation in these countries. Other EU Member States who are not yet ready but wish to join this pioneer group at a later stage will be able to do so.

There are approximately 122 million marriages in the EU, about 16 million (13%) are assumed to be international. Thereby enhanced cooperation in this field aims to:

- improve legal certainty, predictability and flexibility for citizens;
- protect weaker partners during divorce disputes and prevents the so-called "rush to court", i.e. situations where one of the spouses applies for divorce before the other one does in order to ensure that the proceeding is governed by a given law which he or she considers more favourable to his or her own interests; and
- lessens the burden on children in international divorce disputes.