

Judicial cooperation in civil matters: jurisdiction, applicable law and recognition and enforcement of decisions regarding property consequences of registered partnerships

2011/0060(CNS) - 21/08/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted, in the framework of a special legislative procedure (Parliament's consultation), the report by Alexandra THEIN (ADLE, DE) on the proposal for a Council regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

The report proposed **parallel amendments** to those in the report on the [proposal for a Council regulation](#) on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

The committee approves the Commission proposal subject to the following amendments:

Choice of law for registered partnerships: the Commission proposal does not allow registered partnerships the choice of law. Members propose a **rule enabling registered partnerships to choose the applicable law for their property regime**.

The opinion of the EU Agency for Fundamental Rights, consulted by the European Parliament on this issue, confirmed that the Commission proposal does not contain sufficient justification for treating marriage and registered partnerships in an unequal way in this respect and is therefore not in line with Articles 20 and 21 of the Charter of Fundamental Rights.

The amended text states that the partners or future partners may agree on or change the law applicable to the property regime of their registered partnership. The parties should be accorded a degree of freedom in choosing the applicable law for their property regime. This option must be based on:

- the law of habitual residence or on the nationality of one of the partners or future partners;
- the law is that of a State that recognises the institution of registered partnerships.

The choice of law shall be valid only if the partners or future partners can **prove that, prior to making the choice, they have taken advice** on its legal consequences.

As a further consequence of the new provision on the choice of law, Members propose a provision – in line with that for matrimonial property regimes – on the **choice of jurisdiction**, which is linked to the choice of law.

Property issues: Members propose extending the solutions which are appropriate for matrimonial property regimes to registered partnerships. This applies above all to integration of the new matrimonial property regime provisions into other EU legislation, in particular the new EU [Regulation No 650/2012](#) on wills and succession and the 'Brussels I' Regulation.

In this context, the proposed amendments concern the following:

In terms of details, this objective of ensuring equality affects:

- the determination of the scope (e.g. excluding maintenance settlements from German law or similar structures in other Member States),
- reworking the rules on jurisdiction,
- the provisions on the adaptation of rights in rem and the recognition, enforceability and enforcement of judicial decision to be utilised from the Regulation on wills and succession, and the acceptance and enforceability of authentic instruments.

Recognition in a Member State of a decision relating to the property consequences of a registered partnership has as its only object to allow the enforcement of the property consequences determined in that decision. It does not imply recognition by that Member State of the partnership underlying the property consequences which gave rise to that decision.

Revision clause: the report proposes broadening the revision clause in order to examine in close detail, in particular, the practical impact of the individual points where matrimonial property regimes and property regimes of registered partnerships (still) differ and to use this as a basis for working towards harmonisation.