

Judicial cooperation in civil matters: jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

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The Council discussed a number of issues of this proposal and agreed on the following political guidelines for further work. It also confirmed Member States' shared will to successfully complete work on this important instrument.

Abolition of exequatur: discussions show broad agreement on the principle of such abolition, which will reduce the costs involved in enforcement of maintenance decisions and improve the position of creditors by speeding up enforcement of decisions and making them more easily portable within the European Union. The Council confirmed the principle of abolition of exequatur under the proposed Regulation.

Cooperation between central authorities: the Commission is proposing the introduction of a system of cooperation between central authorities in order to facilitate application of the Regulation. The Presidency would point out that similar rules are being drawn up internationally at the Hague Conference and that those negotiations should be borne in mind here. However, the aim should be for the system to be introduced by the Community to go further, where necessary, than the one currently taking shape for the future Hague convention.

Cross-border implications: some delegations consider that the proposed Regulation should, in a separate article, explicitly define cross-border cases, as in other instruments concerning judicial cooperation in civil and commercial matters. Some delegations have also voiced concern regarding the link between the scope of the proposed Regulation and relations with third countries. The Presidency accordingly suggests making it clear in a recital that the Regulation applies only in situations having cross-border implications and hence an international aspect. That recital would refer to the requirement in Article 65 of the Treaty and give examples of situations in which maintenance obligations have cross-border implications. Such a recital, the content of which would still have to be discussed, could state that the Regulation applied, for instance, in situations in which the creditor and the debtor were habitually resident in different States, or where a decision on maintenance obligations concerned a debtor and a creditor habitually resident in the same Member State but subsequently needed to be enforced in another Member State after the debtor had moved there. The Council agreed to this approach.

Agreements with third countries: given the special nature of maintenance obligations, a number of Member States consider it important, if not essential, for them to be able to retain or conclude bilateral agreements with some third countries. The Council approved the principle of allowing Member States to retain or conclude bilateral agreements with third countries on maintenance obligations, without prejudice to the exclusive external competence of the Community. The criteria and conditions would have to be discussed at a later stage. The Council called on the Committee of Civil Law Matters to further continue the discussions on this proposal with a view to arriving at a solution acceptable to all Member States.