Basic information

2016/0061(NLE) NLE - Non-legislative enactments	Procedure completed
Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships **Subject** 4.10.02 Family policy, family law, parental leave 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	CAVADA Jean-Marie (ALDE)	15/03/2016
	Shadow rapporteur VOSS Axel (PPE) GEBHARDT Evelyne (S&D) DZHAMBAZKI Angel (ECR) HAUTALA Heidi (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
FEMM Women's Rights and Gender Equality	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Foreign Affairs	3462	2016-05-12
Justice and Home Affairs (JHA)	3473	2016-06-10

European Commission

Commission DG	Commissioner
Justice and Consumers	JOUROVÁ Věra

Key events

Date	Event	Reference	Summary
02/03/2016	Preparatory document	COM(2016)0108	Summary
28/04/2016	Legislative proposal published	08112/2016	Summary
12/05/2016	Debate in Council		
24/05/2016	Vote in committee		
25/05/2016	Committee referral announced in Parliament		
30/05/2016	Committee report tabled for plenary, 1st reading/single reading	A8-0192/2016	Summary
07/06/2016	Decision by Parliament	T8-0241/2016	Summary
07/06/2016	Results of vote in Parliament		
10/06/2016	Act adopted by Council after consultation of Parliament		
10/06/2016	End of procedure in Parliament		
16/06/2016	Final act published in Official Journal		

Technical information

Procedure reference	2016/0061(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legal basis	Treaty on the Functioning of the European Union TFEU 329-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/05942

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE580.491	29/03/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0192/2016	30/05/2016	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0241/2016	07/06/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	08112/2016	28/04/2016	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2016)0108	02/03/2016	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	FR_ASSEMBLY	COM(2016)0108	13/05/2016	
Contribution	IT_SENATE	COM(2016)0108	25/05/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2016/0954
OJ L 159 16.06.2016, p. 0016 Summary

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 02/03/2016 - Preparatory document

PURPOSE: to authorise enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Union has set itself the objective of maintaining and developing an **area of freedom, security and justice** in which the free movement of persons is ensured. Currently citizens face different practical problems with asset planning when they are in an international marriage or partnership. The problem is that it is very **difficult for people to know which courts have jurisdiction and which laws are applicable** to their personal situation and the situation of their property. As a result, they face unintended, and disadvantageous, consequences not only in the daily management of their assets but also when the couple separates or a member of the couple dies.

On 16 March 2011, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

The European Parliament delivered its favourable opinion and comments on the two proposals on 10 September 2013.

However, the Council concluded at its meeting of 3 December 2015 that it would **not be possible to reach an EU-wide agreement** in relation to both regulations within a reasonable period of time.

To date, the Commission has received requests from **17 Member States indicating their wish to establish enhanced cooperation**: Sweden, Belgium, Greece, Croatia, Slovenia, Spain, France, Portugal, Italy, Malta, Luxembourg, Germany, the Czech Republic, the Netherlands, Austria, Bulgaria and Finland.

The Commission concluded that all the legal conditions set by the Treaties for the authorisation of the establishment of enhanced cooperation are fulfilled. It considered that the benefits of establishing enhanced cooperation are numerous compared to the option of keeping the status quo and that the advantages of establishing enhanced cooperation in this area outweigh any possible disadvantage.

CONTENT: the draft Council Decision – based on Article 329(1), of the Treaty on the Functioning of the European Union (TFEU) – seeks to **authorise enhanced cooperation** between 17 requesting Member States in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

Proposals for specific measures implementing the enhanced cooperation are submitted together with this proposal.

According to the Commission, enhanced cooperation would bring citizens the following benefits:

- treating the property regimes of couples coherently under a **single applicable law** and by one single authority;
- enabling international couples to **choose the law** to be applied to their property;
- increasing legal certainty for international couples by applying - as a general rule - the law of the State with which the couple has the closest connection;
- enabling citizens to have **various procedures handled by the same court** and thereby avoid parallel proceedings and conflicting judicial decisions;
- improving predictability for international couples by **simplifying procedures for the recognition and enforcement of decisions** and the circulation of authentic instruments throughout the EU.

Enhanced cooperation shall be open at any time to all Member States, in accordance with Article 328 of the TFEU.

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 28/04/2016 - Legislative proposal

PURPOSE: to authorise enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 16 March 2011, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

Given that it was impossible to reach an agreement within a reasonable period by the Union as a whole for the adoption of the regulations, **18 Member States indicated that they wished to establish enhanced cooperation**: Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden.

CONTENT: the draft Council Decision seeks to **authorise enhanced cooperation between 18 requesting Member States** in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

Enhanced cooperation aims to **develop judicial cooperation in civil matters having cross-border implications** based on the principle of mutual recognition of judgments, and to ensure the compatibility of the rules applicable in the Member States concerning conflict of laws.

Enhanced cooperation should provide a **clear and comprehensive legal framework** in the area of the property regimes of international couples, covering both matrimonial property regimes and the property consequences of registered partnerships, in the participating Member States, ensure adequate solutions for citizens in terms of legal certainty, predictability and flexibility, and facilitate the circulation of decisions and authentic instruments between the participating Member States.

For further details, please refer to the summary of the Commission's initial legislative proposal from 2.3.2016.

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 02/03/2016

PURPOSE: to authorise enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Union has set itself the objective of maintaining and developing an **area of freedom, security and justice** in which the free movement of persons is ensured. Currently citizens face different practical problems with asset planning when they are in an international marriage or partnership. The problem is that it is very **difficult for people to know which courts have jurisdiction and which laws are applicable** to their personal situation and the situation of their property. As a result, they face unintended, and disadvantageous, consequences not only in the daily management of their assets but also when the couple separates or a member of the couple dies.

On 16 March 2011, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

The European Parliament delivered its favourable opinion and comments on the two proposals on 10 September 2013.

However, the Council concluded at its meeting of 3 December 2015 that it would **not be possible to reach an EU-wide agreement** in relation to both regulations within a reasonable period of time.

To date, the Commission has received requests from **17 Member States indicating their wish to establish enhanced cooperation**: Sweden, Belgium, Greece, Croatia, Slovenia, Spain, France, Portugal, Italy, Malta, Luxembourg, Germany, the Czech Republic, the Netherlands, Austria, Bulgaria and Finland.

The Commission concluded that all the legal conditions set by the Treaties for the authorisation of the establishment of enhanced cooperation are fulfilled. It considered that the benefits of establishing enhanced cooperation are numerous compared to the option of keeping the status quo and that the advantages of establishing enhanced cooperation in this area outweigh any possible disadvantage.

CONTENT: the draft Council Decision – based on Article 329(1), of the Treaty on the Functioning of the European Union (TFEU) – seeks to **authorise enhanced cooperation** between 17 requesting Member States in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

Proposals for specific measures implementing the enhanced cooperation are submitted together with this proposal.

According to the Commission, enhanced cooperation would bring citizens the following benefits:

- treating the property regimes of couples coherently under a **single applicable law** and by one single authority;
- enabling international couples to **choose the law** to be applied to their property;
- increasing legal certainty for international couples by applying - as a general rule - the law of the State with which the couple has the closest connection;
- enabling citizens to have **various procedures handled by the same court** and thereby avoid parallel proceedings and conflicting judicial decisions;
- improving predictability for international couples by **simplifying procedures for the recognition and enforcement of decisions** and the circulation of authentic instruments throughout the EU.

Enhanced cooperation shall be open at any time to all Member States, in accordance with Article 328 of the TFEU.

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 30/05/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Jean-Marie CAVADA (ADLE, FR) on the draft Council decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

The committee recommended the European Parliament to **give its consent** to the draft Council decision.

In a short justification accompanying the recommendation, it is recalled that the decision to have recourse to enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in the matter of property regimes of international couples, covering both matrimonial property regimes and the property consequences of registered partnerships, has been taken since negotiations between all Member States, on the Commission's initial proposals of 2011, reached stalemate.

In the area of family law, legislative acts are adopted by the Council acting unanimously after consulting the European Parliament. Parliament had given its consent in 2013 to the 2011 draft acts, but by the end of 2015 it became clear that it would not be possible for all Member States to agree to the proposals.

Enhanced cooperation was therefore clearly the ideal solution, since 23 Member States agreed in principle to the adoption of these two acts. In early 2016, the Commission therefore drew up, using the enhanced cooperation procedure, new proposals for acts.

According to members, enhanced cooperation in the in the area of the property regimes of international couples meets the conditions set out. It is clearly in accordance with the objectives of the Union and in the interest of its citizens.

This recommendation therefore proposed that Parliament consents to enhanced cooperation in this area.

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 09/06/2016 - Final act

PURPOSE: to authorise enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

NON-LEGISLATIVE ACT: Council Decision (EU) 2016/954 authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

CONTENT: the Council Decision authorises **enhanced cooperation between 18 requesting Member States** in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships: Belgium, Bulgaria, Czech Republic, Germany, Greece, Spain, France , Croatia, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden.

To recall, on 16 March 2011, the Commission adopted a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, and a proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

Given that it was concluded that it would not be possible to reach an agreement within a reasonable period by the Union as a whole for the adoption of the regulations, the 18 Member States requested enhanced cooperation.

Enhanced cooperation should:

- **provide a clear and comprehensive legal framework** in the area of the property regimes of international couples, covering both matrimonial property regimes and the property consequences of registered partnerships, in the participating Member States;
- ensure adequate solutions for citizens in terms of legal certainty, predictability and flexibility;
- facilitate the circulation of decisions and authentic instruments between the participating Member States.

Enhanced cooperation aims to develop judicial cooperation in civil matters having cross-border implications based on the principle of **mutual recognition of judgments**, and to ensure the compatibility of the rules applicable in the Member States concerning conflict of laws. It respects: (i) the Treaties and Union law in this area; (ii) the competences, rights and obligations of those Member States that do not participate in it; (iii) principles enshrined in the Charter of Fundamental Rights of the European Union.

Enhanced cooperation shall be **open, at any time**, to all Member States, in accordance with Article 328 TFEU.

ENTRY INTO FORCE: 9.6.2016.

Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on property regimes of international couples, covering both matters of matrimonial property regimes and property consequences of registered partnerships

2016/0061(NLE) - 07/06/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 550 votes to 68, with 36 abstentions, a legislative resolution on the draft Council decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

In line with the recommendation made by the Committee on Legal Affairs, Parliament **gave its consent** to the draft Council Decision.

The draft Council Decision seeks to authorise enhanced cooperation between **18 requesting Member States** (Belgium, Bulgaria, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Cyprus, Luxembourg, Malta, the Netherlands, Austria, Portugal, Slovenia, Finland and Sweden) in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, covering both matters of matrimonial property regimes and the property consequences of registered partnerships.

Enhanced cooperation aims to develop judicial cooperation in civil matters having cross-border implications based on the principle of mutual recognition of judgments, and to ensure the compatibility of the rules applicable in the Member States concerning conflict of laws.