



EUROPEAN COMMISSION

Brussels, 3. 4. 2012
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Dear President,

The Commission would like to thank the Romanian Senate for its Opinion on the Commission proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes {COM(2011)126 final}. We apologise for the extremely long delay in responding.

The Commission welcomes the support of the Romanian Senate for the proposal and its finding that the proposal is in compliance with the principles of subsidiarity and proportionality.

The aim of the proposal for a Regulation is to establish a common set of rules of international private law applicable on matrimonial property regimes in cross-border cases to fully meet the problems experienced by international couples in this area. The proposal will provide rules on jurisdiction, applicable law and on recognition and enforcement of decisions, authentic instruments and court settlements for matrimonial property regimes.

The proposal supplements also the existing legal framework in family matters, in particular the Council Regulation (EC) n° 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (called "Brussels II a"), and the Council Regulation (EU) n° 1259/2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation.

In reply to the comments raised in the Senate's Opinion, the Commission would like to give the following clarifications:

The proposal deals with the matrimonial property regimes of the couples and its scope is limited to that issue. Questions related to the existence, the validity or the recognition of a marriage are not covered by the proposal.

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As regards the applicable law, the principle is the unity of the applicable law. In the case where no choice is made by the spouses according to Article 16 at the time of the marriage, the proposal (Article 17) provides for three connection criteria in hierarchical order to determine the applicable law. Article 18 provides the possibility for the spouses to change the applicable law. However, only a voluntary change of applicable law is possible. The proposal does not foresee a time period for the change of the applicable law and leaves this question to the spouses.

The Commission hopes that the clarifications provided above address the main issues expressed in your Opinion, and looks forward to continuing our political dialogue.

Yours faithfully,

*Maroš Šefčovič
Vice-President*