

Summarised report

REPORT 5/2016 OF THE JOINT COMMITTEE FOR EU AFFAIRS, DATED APRIL 27, 2016, ON THE COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY BY THE PROPOSAL FOR A REGULATION OF THE COUNCIL ON JURISDICTION, APPLICABLE LAW AND THE RECOGNITION AND ENFORCEMENT OF DECISIONS IN MATTERS OF MATRIMONIAL PROPERTY REGIMES [COM (2016) 106 FINAL] [2016/0059 (CNS)], AND BY THE PROPOSAL FOR A REGULATION OF THE COUNCIL ON JURISDICTION, APPLICABLE LAW AND THE RECOGNITION AND ENFORCEMENT OF DECISIONS IN MATTERS OF THE PROPERTY CONSEQUENCES OF REGISTERED PARTNERSHIPS [COM (2016) 107 FINAL] [2016/0060 (CNS)]

BACKGROUND

A. The legal basis for this report is to be found in articles 3 j), 5 and 6 of Act 8/1994 (amended by Act 24/2009), developing in Spain the Protocol on the Application of the Principles of Subsidiarity and Proportionality attached to the Lisbon Treaty.

B. The deadline to verify the subsidiarity check of this Proposal is May 6, 2016.

C. The Government has been requested a report and MP Mr. Rubén Moreno Palanqués has been appointed as rapporteur for the subsidiarity report on this initiative.

D. The Government and the Basque Regional Assembly state in their respective reports that these proposals comply with the principle of subsidiarity. The Regional Assembly of La Rioja, the Regional Assembly of Galicia, the Regional Assembly of Cantabria, the Regional Assembly of Aragón and the Regional Assembly of Catalonia, have conveyed in writing that the file has been either shelved, taken into consideration or the reasoned Opinion not issued.

E. The Joint Committee for EU Affairs adopted the following Report 5/2016 in its session held on April 27, 2016.

REPORT

1.- Articles 5 (1) and 5 (3) of the TEU describe the principles of subsidiarity and proportionality.

2.- The legislative proposals under consideration are based on article 81 (3) of the Treaty on the Functioning of the European Union.

3.- A large number of transnational couples within the Union face practical and legal difficulties that often result from the great disparities between the applicable rules governing the property effects of marriage or registered partnerships.

4.- To remedy this, the Commission announced that it would adopt in 2011 a proposal for legislation to provide couples with greater legal certainty.

5.- Due to the specific features of marriages and registered partnerships, as well as to their different legal effects, the Commission adopted on March 16, 2011, the two Proposals for a Regulation under consideration.

6.- According to the legal basis of these Proposals, the Council adopts the proposed measures on an unanimous basis, prior consultation with the European Parliament.

- 7.- The European Parliament issued its opinion, but in its meeting held on December 3, 2015, the JHA Council concluded that no unanimity could be reached for the adoption of the Proposals.
- 8.- From December 2015 to February 2016, 17 Member States addressed a request to the Commission indicating that they wished to establish enhanced cooperation between themselves in the area covered by both Proposals.
- 9.- Spain was one of the first Member States to request the Commission the said initiative.
- 10.- The Commission adopted the required package on March 3, 2016, including the Proposals for a Regulation under consideration which are the implementing measures of enhanced cooperation.
- 11.- The said Proposals for a Regulation reproduce the compromise package submitted to the JHA Council of December 3, 2015, and are likewise presented as a sole legislative package with a view to its joint adoption.
- 12.- Once enhanced cooperation is authorised by qualified majority of the Council, the Proposals for a Regulation must be unanimously adopted by Member States..
13. - The Proposals comply with the principle of subsidiarity as the objectives cannot be sufficiently achieved by the Member States alone. Moreover, it has to be borne in mind that the compliance with the principle of subsidiarity of the said legislative Proposals had already been positively assessed in 2011.
- 14.- The Proposals comply with the principle of proportionality as in that they are strictly limited to what is necessary to achieve its objectives.
- 15.- The Proposals comply with the rights set out in the Charter for Fundamental Rights of the European Union .
- 16.- The need for legal certainty and predictability calls for clear and uniform rules and requires that the legislation take the form of a regulation.
- 17.- The Proposals have no impact on the Union budget.
- 18.- The harmonisation of the rules on jurisdiction will greatly simplify procedures by making it possible to determine the court with jurisdiction to deal with the property consequences of registered partnerships on the basis of common rules.
- 19.- The harmonisation of conflict-of-law rules will considerably simplify procedures by establishing which law is applicable on the basis of a single set of rules replacing the various national conflict-of-law rules of the participating Member States.
- 20.- Finally, the rules proposed for the recognition and enforcement of court decisions will facilitate the movement of citizens between different Member States.
- 21.- These Proposals are part of the Commission's efforts to dismantle the obstacles faced by EU citizens in their daily lives when they try to exercise the rights the EU confers on them.

CONCLUSION

For the aforementioned reasons, the Joint Committee considers that these Proposals comply with the principle of subsidiarity laid down in the Treaty on the European Union in force.