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CCBE Letter concerning the Proposal for a Council Regulation on jurisdiction, applicable Law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, COM(2005)649

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The Council of Bars and Law Societies of Europe (CCBE) represents more than 700,000 European lawyers through its member bars and law societies of the European Union and the European Economic Area. In addition to membership from EU bars, it has also observer representatives from a further seven European countries' bars. The CCBE responds regularly on behalf of its members to policy consultations which affect European citizens and lawyers.

Following the Proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, the CCBE would like welcome the initiative taken by the European Commission. The experts of the CCBE working group on Divorce considered the proposal, all of them being practitioners and very familiar with the day-to day reality addressed by this Proposal.

The CCBE considers this legislative proposal as an excellent step in the right direction as it ensures the simplification of the life of many citizens who are faced with the recovery of maintenance. The envisaged harmonisation of conflict-of-law rules will help to create some degree of legal certainty. Principally, efforts should be made to ensure that choice-of-law and choice-of-jurisdiction rules have a close relationship to the procedural law in question.

Furthermore, regard must be had to those jurisdictions who do not currently apply foreign law in their systems and the implications for these jurisdictions of the introduction of conflict of law rules. The CCBE notes that the Government of the UK has decided to opt out of this proposal, at least at this stage.

Also, a simple and harmonised enforcement system strengthens effectiveness and the continuity of recovery. From the viewpoint of lawyers who work hard to assert their client's legitimate claims, this proposal deserves every support.