

Proposal for a Council Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility repealing Regulation (EC) No 1347/2000 and amending Regulation (EC) No 44/2001 in matters relating to maintenance

(2002/C 203 E/27)

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(Submitted by the Commission on 3 May 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas:

(1) The European Community has set the objective of creating an area of freedom, security and justice, in which the free movement of persons is ensured. To this end, the Community is to adopt, among others, measures in the field of judicial cooperation in civil matters that are necessary for the proper functioning of the internal market.

(2) The Tampere European Council endorsed the principle of mutual recognition of judicial decisions as the cornerstone for the creation of a genuine judicial area, and identified visiting rights as a priority.

(3) Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses ⁽¹⁾ sets out rules on jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility for the children of both spouses rendered on the occasion of the matrimonial proceedings.

(4) On 3 July 2000 France presented an initiative for a Council Regulation on the mutual enforcement of judgments on rights of access to children ⁽²⁾.

(5) For purposes of facilitating the application of the rules on parental responsibility that often arises in the context of matrimonial proceedings, it is more appropriate to have a single instrument for matrimonial matters and matters of parental responsibility.

(6) The scope of this Regulation should cover civil proceedings, including proceedings considered equivalent to judicial proceedings, and excluding purely religious proceedings. Therefore the reference to 'courts' should include all authorities, judicial or otherwise, with jurisdiction in the matters covered by this Regulation.

(7) Authentic instruments and court settlement that are enforceable in one Member State should be treated as equivalent to 'judgments'.

(8) As regards judgments on divorce, legal separation or marriage annulment, this Regulation should only apply to the dissolution of matrimonial ties, and should not affect issues such as the fault of the spouses, property consequences of the marriage, maintenance obligations or any other ancillary measures.

(9) In order to ensure equality for all children, this Regulation should cover all decisions on parental responsibility, excluding matters relating to maintenance, which are covered by Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽³⁾ and measures taken as a result of penal offences committed by children.

(10) The grounds of jurisdiction in matters of parental responsibility accepted in this Regulation should be shaped in the light of the best interests of the child. This means that jurisdiction should lie in the first place with the Member State of the child's habitual residence, except for certain cases of a change in the child's residence or pursuant to an agreement between the holders of parental responsibility.

⁽¹⁾ OJ L 160, 30.6.2000, p. 19.

⁽²⁾ OJ C 234, 15.8.2000, p. 7.

⁽³⁾ OJ L 12, 16.1.2001, p. 1.

- (11) Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extra-judicial documents in civil or commercial matters ⁽¹⁾ should apply to the service of documents in proceedings instituted pursuant to this Regulation.
- (12) This Regulation should not prevent the courts of a Member State from taking provisional, including protective, measures, in urgent cases, with regard to persons or property situated in that State.
- (13) In cases of child abduction, the courts of the Member State to which the child has been removed or is retained should have the possibility to take a provisional protective measure not to return the child, which should be superseded by a judgment on custody issued by the courts of the child's former habitual residence. Should that judgment entail the return of the child, the child should be returned without any special procedure being required for recognition and enforcement in the Member State to which the child has been abducted.
- (14) Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters ⁽²⁾ may be used for the hearing of the child.
- (15) The recognition and enforcement of judgments given in a Member State are based on the principle of mutual trust and the grounds for non-recognition should be kept to the minimum required. These relate to observing public policy in the Member State of enforcement, safeguarding the rights of the defence and those of the parties, including the rights of the child, and withholding recognition of irreconcilable judgments.
- (16) No special procedure should be required in the Member State of enforcement for the recognition and enforcement of judgments on rights of access and judgments on return that have been certified in the Member State of origin in accordance with the provisions of this Regulation.
- (17) Central authorities should cooperate both as a general matter and in specific cases, including for purposes of promoting the amicable resolution of family disputes. To this end central authorities should avail themselves to participate in the European Judicial Network in civil and commercial matters created by Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters ⁽³⁾.
- (18) The Commission should be empowered to amend Annexes I, II and III relating to the courts and redress procedures on the basis of the information communicated by the Member State concerned.
- (19) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾, amendments to Annexes IV to VII should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.
- (20) In the light of the foregoing, Regulation (EC) No 1347/2000 should be repealed and replaced.
- (21) Regulation (EC) No 44/2001 should be amended as to allow the court having jurisdiction in matters of parental responsibility in accordance with the provisions of this Regulation to decide on maintenance.
- (22) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Regulation.
- (23) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, is not participating in the adoption of this Regulation, and is therefore not bound by it nor subject to its application.
- (24) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty establishing the European Community, the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community. This Regulation does not go beyond what is necessary to achieve those objectives.
- (25) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, it seeks to ensure full respect for the fundamental rights of the child as recognised in Article 24 of the Charter of Fundamental Rights of the European Union,

⁽¹⁾ OJ L 160, 30.6.2000, p. 37.

⁽²⁾ OJ L 174, 27.6.2001, p. 1.

⁽³⁾ OJ L 174, 27.6.2001, p. 25.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE, DEFINITIONS AND BASIC PRINCIPLES

Article 1

Scope

1. This Regulation shall apply to civil proceedings relating to:

(a) divorce, legal separation or marriage annulment

and

(b) the attribution, exercise, delegation, restriction or termination of parental responsibility.

2. Notwithstanding paragraph 1 this Regulation shall not apply to civil proceedings relating to:

(a) matters relating to maintenance

and

(b) measures taken as a result of penal offences committed by children.

3. Other proceedings officially recognised in a Member State shall be regarded as equivalent to judicial proceedings.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. The term 'court' shall cover all the authorities in the Member States with jurisdiction in the matters falling within the scope of this Regulation pursuant to Article 1;

2. the term 'Member State' shall mean all Member States with the exception of Denmark;

3. the term 'judgment' shall mean a divorce, legal separation or marriage annulment, as well as a judgment relating to parental responsibility, pronounced by a court of a Member State, whatever the judgment may be called, including a decree, order or decision;

4. the term 'Member State of origin' shall mean the Member State where the judgment to be enforced was issued;

5. the term 'Member State of enforcement' shall mean the Member State where enforcement of the judgment is sought;

6. the term 'parental responsibility' shall mean rights and duties given to a natural or legal person by judgment, by operation of law or by an agreement having legal effect and relating to the person or the property of a child. In particular, the term shall include rights of custody and rights of access;

7. the term 'holder of parental responsibility' shall mean any person having parental responsibility over a child;

8. the term 'rights of custody' shall include rights and duties relating to the care of the person of a child, and in particular the right to have a say in determining the child's place of residence;

9. the term 'rights of access' shall include the right to take a child to a place other than his or her habitual residence for a limited period of time;

10. the term 'child abduction' shall mean a child's removal or retention where:

(a) it is in breach of rights of custody acquired by judgment or by operation of law or by an agreement having legal effect under the law of the Member State where the child was habitually resident immediately before the removal or retention;

and

(b) provided that, at the time of removal or retention the rights of custody were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

Article 3

Right of the child to contact with both parents

A child shall have the right to maintain on a regular basis a personal relationship and direct contact with both parents, unless this is contrary to his or her interests.

*Article 4***Right of the child to be heard**

A child shall have the right to be heard on matters relating to parental responsibility over him or her in accordance with his or her age and maturity.

CHAPTER II

JURISDICTION

Section 1

Divorce, legal separation and marriage annulment*Article 5***General jurisdiction**

1. In matters relating to divorce, legal separation or marriage annulment, jurisdiction shall lie with the courts of the Member State

(a) in whose territory:

- the spouses are habitually resident, or
- the spouses were last habitually resident, in so far as one of them still resides there, or
- the respondent is habitually resident, or
- in the event of a joint application, either of the spouses is habitually resident, or
- the applicant is habitually resident if he or she resided there for at least a year immediately before the application was made, or
- the applicant is habitually resident if he or she resided there for at least six months immediately before the application was made and is either a national of the Member State in question or, in the case of the United Kingdom and Ireland, has his 'domicile' there;

(b) of the nationality of both spouses or, in the case of the United Kingdom and Ireland, of the 'domicile' of both spouses.

2. For the purpose of this Regulation, 'domicile' shall have the same meaning as it has under the legal systems of the United Kingdom and Ireland.

*Article 6***Counterclaim**

The court in which proceedings are pending on the basis of Article 5 shall also have jurisdiction to examine a counterclaim, in so far as the latter comes within the scope of this Regulation.

*Article 7***Conversion of legal separation into divorce**

Without prejudice to Article 5, a court of a Member State that has given a judgment on a legal separation shall also have jurisdiction for converting that judgment into a divorce, if the law of that Member State so provides.

*Article 8***Exclusive nature of jurisdiction under Articles 5 to 7**

A spouse who:

- (a) is habitually resident in the territory of a Member State; or
- (b) is a national of a Member State, or, in the case of the United Kingdom and Ireland, has his or her 'domicile' in the territory of one of the latter Member States,

may be sued in another Member State only in accordance with Articles 5 to 7.

*Article 9***Residual jurisdiction**

1. Where no court of a Member State has jurisdiction pursuant to Articles 5 to 7, jurisdiction shall be determined, in each Member State, by the laws of that State.

2. As against a respondent who is not habitually resident and is not either a national of a Member State or, in the case of the United Kingdom and Ireland, does not have his 'domicile' within the territory of one of the latter Member States, any national of a Member State who is habitually resident within the territory of another Member State may, like the nationals of that State, avail himself of the rules of jurisdiction applicable in that State.

Section 2

Parental responsibility

Article 10

General jurisdiction

1. The courts of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State at the time the court is seized.
2. Paragraph 1 shall be subject to the provisions of Articles 11, 12 and 21.

Article 11

Continuing jurisdiction of the Member State of the child's former residence

1. In the case of a change of residence of a child, the courts of the Member State of the former residence of the child shall continue to have jurisdiction where:
 - (a) there is a judgment issued by these courts in accordance with Article 10;
 - (b) the child has resided in the State of his or her new residence for a period of less than six months at the time the court is seized;and
 - (c) one of the holders of parental responsibility continues to reside in the Member State of the former residence of the child.
2. Paragraph 1 shall not apply if the child's new residence has become his/her habitual residence and if the holder of parental responsibility referred to in paragraph 1, point (c) has accepted the jurisdiction of the courts of this Member State.
3. For the purposes of this Article the appearance of a holder of parental responsibility before a court shall not be deemed in itself to constitute acceptance of the court's jurisdiction.

Article 12

Prorogation of jurisdiction

1. The courts of a Member State exercising jurisdiction by virtue of Article 5 on an application for divorce, legal separation or marriage annulment shall have jurisdiction in a matter relating to parental responsibility over a child of both spouses:
 - (a) if the child is habitually resident in one of the Member States;

- (b) if at least one of the spouses has parental responsibility in relation to the child;

and

- (c) if the jurisdiction of the courts has been accepted by the spouses and is in the best interests of the child.

2. The courts of a Member State shall have jurisdiction where:

- (a) all holders of parental responsibility have accepted jurisdiction at the time the court is seized;

- (b) the child has a substantial connection with that Member State, in particular by virtue of the fact that one of the holders of parental responsibility is habitually resident in that Member State or that the child is a national of that Member State;

and

- (c) jurisdiction is in the best interests of the child.

3. The jurisdiction conferred in paragraph 1 shall cease as soon as:

- (a) the judgment allowing or refusing the application for divorce, legal separation or marriage annulment has become final;

or

- (b) in those cases where proceedings in relation to parental responsibility are still pending on the date referred to in (a), a judgment in these proceedings has become final;

or

- (c) the proceedings referred to in (a) and (b) have come to an end for another reason.

4. For the purposes of this Article the appearance of a holder of parental responsibility before a court shall not be deemed in itself to constitute acceptance of the court's jurisdiction.

Article 13

Jurisdiction based on the child's presence

1. Where a child's habitual residence cannot be established and no court of a Member State has jurisdiction pursuant to Articles 11 or 12, the courts of the Member State where the child is present shall have jurisdiction.
2. Paragraph 1 shall also apply to refugee children or children internationally displaced because of disturbances occurring in their country.

*Article 14***Residual jurisdiction**

Where no court of a Member State has jurisdiction pursuant to Articles 10 to 13 or 21, jurisdiction shall be determined, in each Member State, by the laws of that State.

*Article 15***Transfer to a court better placed to hear the case**

1. On the basis of an application by a holder of parental responsibility, the courts of a Member State having jurisdiction as to the substance of the matter may, in exceptional circumstances where this is in the best interests of the child, transfer the case to the courts of another Member State which:

- (a) was the former habitual residence of the child, or
- (b) is the place of the child's nationality, or
- (c) is the habitual residence of a holder of parental responsibility, or
- (d) is the place where property of the child is located.

To this end, the courts of the Member State having jurisdiction as to the substance of the matter shall stay the proceedings and prescribe a period of time during which the courts of that other Member State must be seized.

The courts of that other Member State may, where this is in the best interests of the child, accept jurisdiction within one month from the time they are seized. In this case, the court first seized shall decline jurisdiction. Otherwise, the court first seized shall exercise jurisdiction.

2. The courts shall cooperate for purposes of this Article, either directly or through the central authorities designated pursuant to Article 55.

Section 3**Common provisions***Article 16***Seizing of a Court**

A court shall be deemed to be seized:

- (a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps he was required to take to have service effected on the respondent;

or

- (b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the applicant has not subsequently failed to take the steps he was required to take to have the document lodged with the court.

*Article 17***Examination as to jurisdiction**

Where a court of a Member State is seized of a case over which it has no jurisdiction under this Regulation and over which a court of another Member State has jurisdiction by virtue of this Regulation, it shall declare of its own motion that it has no jurisdiction.

*Article 18***Examination as to admissibility**

1. Where a respondent habitually resident in a State other than the Member State where the action was brought does not enter an appearance, the court with jurisdiction shall stay the proceedings so long as it is not shown that the respondent has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defense, or that all necessary steps have been taken to this end.

2. Article 19 of Regulation (EC) No 1348/2000 shall apply instead of the provisions of paragraph 1 of this Article if the document instituting the proceedings or an equivalent document had to be transmitted from one Member State to another pursuant to that Regulation.

3. Where the provisions of Regulation (EC) No 1348/2000 are not applicable, Article 15 of the Hague Convention of 15 November 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters shall apply if the document instituting the proceedings or an equivalent document had to be transmitted abroad pursuant to that Convention.

*Article 19***Lis pendens and dependent actions**

1. Where proceedings relating to divorce, legal separation or marriage annulment between the same parties are brought before courts of different Member States, the court second seized shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seized is established.

2. Where proceedings relating to parental responsibility over the same child are brought before courts of different Member States, the court second seized shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seized is established.

3. Where the jurisdiction of the court first seized is established, the court second seized shall decline jurisdiction in favour of that court.

In that case, the party who brought the relevant action before the court second seized may bring that action before the court first seized.

Article 20

Provisional, including protective, measures

1. Without prejudice to Chapter III, in urgent cases, the provisions of this Regulation shall not prevent the courts of a Member State from taking such provisional, including protective, measures in respect of persons or assets in that State as may be available under the law of that Member State, even if, under this Regulation, the court of another Member State has jurisdiction as to the substance of the matter.

2. The measures referred to in paragraph 1 shall cease to apply when the courts of the Member State having jurisdiction as to the substance of the matter have issued a judgment.

CHAPTER III

CHILD ABDUCTION

Article 21

Jurisdiction

1. In cases of child abduction, the courts of the Member State in which the child was habitually resident immediately before the removal or retention shall continue to have jurisdiction.

2. Paragraph 1 shall not apply if the child has acquired a habitual residence in another Member State, and:

(a) if each holder of rights of custody has acquiesced in the removal or retention;

or

(b) if all of the following conditions are fulfilled:

(i) the child has resided in that other Member State for a period of at least one year after the holder of rights of custody has had or should have had knowledge of the whereabouts of the child;

(ii) within the period referred to under (i) no application for return has been lodged pursuant to Article 22, paragraph 1, or a judgment that does not entail return has been issued in accordance with Article 24, paragraph 3, or no judgment on custody has been issued one year after the court has been seized pursuant to Article 24, paragraph 2;

and

(iii) the child is settled in his or her new environment.

Article 22

Return of the child

1. Without prejudice to any other legal means available, a holder of rights of custody may apply for the return of an abducted child to the central authority of the Member State to which the child has been abducted, either directly or through another central authority.

2. Upon receipt of an application for return pursuant to paragraph 1, the central authority of the Member State to which the child has been abducted shall:

(a) take the necessary measures for locating the child;

and

(b) ensure that the child has been returned within one month from locating him or her, unless proceedings instituted pursuant to paragraph 3 are pending.

The central authority of the Member State to which the child has been abducted shall forward to the central authority of the Member State of the child's habitual residence immediately before the removal or retention all useful information and make recommendations, as appropriate, for facilitating his or her return, or shall provide all useful information and remain in contact during the proceedings pursuant to paragraph 3.

3. The return of the child may be refused only by applying to the courts of the Member State to which the child has been abducted for a protective measure within the time period indicated in paragraph 2.

*Article 23***Provisional protective measure not to return the child**

1. The courts of the Member State to which the child has been abducted shall decide without delay on an application for a protective measure pursuant to Article 22, paragraph 3.

The child shall be heard during the procedure, unless this appears inappropriate having regard to his or her age or degree of maturity.

2. The courts may take a protective measure not to return the child pursuant to paragraph 1 only if:

(a) there is a grave risk that return would expose the child to physical or psychological harm or otherwise place him or her in an intolerable situation;

or

(b) the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his or her views.

3. The measure taken pursuant to paragraph 1 shall be provisional. The courts having issued this measure may at any time decide that it shall cease to apply.

The measure taken pursuant to paragraph 1 shall be superseded by a judgment on custody issued pursuant to Article 24, paragraph 3.

*Article 24***Judgment on custody**

1. The central authority of the Member State to which the child has been abducted shall inform the central authority of the Member State of the child's habitual residence immediately before the removal or retention of any protective measure taken pursuant to Article 23, paragraph 1 within two weeks from taking the measure, and shall forward all useful information, in particular a transcript of the hearing of the child, if any.

2. The central authority of the Member State of the child's habitual residence immediately before the removal or retention shall seize the courts of that Member State within one month from receiving the information referred to in paragraph 1 for a decision on custody.

Any holder of parental responsibility may also apply to the courts for the same purpose.

3. The courts seized pursuant to paragraph 2 shall issue a judgment on custody without delay.

During the procedure the court shall remain in contact, directly or through the central authorities, with the court that took the protective measure not to return the child pursuant to Article 23, paragraph 1, for purposes of monitoring the child's situation.

The child shall be heard during the procedure, unless this appears inappropriate having regard to his or her age or degree of maturity. For this purpose the court shall take into account the information forwarded pursuant to paragraph 1 and, where appropriate, use the cooperation provisions of Regulation (EC) No 1206/2001.

4. The central authority of the Member State of the child's habitual residence immediately before the removal or retention shall inform the central authority of the Member State to which the child has been abducted of the judgment issued pursuant to paragraph 3, and shall forward all useful information and make recommendations, as appropriate.

5. A judgment given pursuant to paragraph 3 that entails the return of the child and has been certified in accordance with the provisions of Chapter IV, Section 3 shall be recognised and enforced without any special procedure being required for the limited purpose of returning the child.

For purposes of this paragraph the judgment given pursuant to paragraph 3 shall be enforceable notwithstanding any appeal.

*Article 25***Fees and other costs**

1. The assistance provided by the central authorities shall be free of charge.

2. The courts may direct a person who has abducted a child to pay any costs incurred, including legal fees, for locating and returning the child.

CHAPTER IV

RECOGNITION AND ENFORCEMENT

Section 1

Recognition*Article 26***Recognition of a judgment**

1. A judgment given in a Member State shall be recognised in the other Member States without any special procedure being required.

The provisions of this Chapter shall also apply to the determination of the amount of costs and expenses of proceedings under this Regulation and to the enforcement of any order concerning such costs and expenses.

Documents which have been formally drawn up or registered as authentic instruments and are enforceable in one Member State and also settlements which have been approved by a court in the course of proceedings and are enforceable in the Member State in which they were concluded shall be recognised and declared enforceable under the same conditions as judgments.

2. In particular, and without prejudice to paragraph 3, no special procedure shall be required for up-dating the civil-status records of a Member State on the basis of a judgment relating to divorce, legal separation or marriage annulment given in another Member State, and against which no further appeal lies under the law of that Member State.

3. Without prejudice to Section 3 of this Chapter, any interested party may, in accordance with the procedures provided for in Section 2 of this Chapter, apply for a decision that the judgment be or not be recognised.

The local jurisdiction of the court appearing in the list in Annex I shall be determined by the internal law of the Member State in which proceedings for recognition or non-recognition are brought.

4. Where the recognition of a judgment is raised as an incidental question in a court of a Member State, that court may determine that issue.

Article 27

Grounds of non-recognition for judgments relating to divorce, legal separation or marriage annulment

A judgment relating to a divorce, legal separation or marriage annulment shall not be recognised:

- (a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought;
- (b) where it was given in default of appearance, if the respondent was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable the respondent to arrange for his or her defense unless it is determined that the respondent has accepted the judgment unequivocally;

- (c) if it is irreconcilable with a judgment given in proceedings between the same parties in the Member State in which recognition is sought; or

- (d) if it is irreconcilable with an earlier judgment given in another Member State or in a non-member State between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in the Member State in which recognition is sought.

Article 28

Grounds of non-recognition for judgments relating to parental responsibility

A judgment relating to parental responsibility shall not be recognised:

- (a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought taking into account the best interests of the child;
 - (b) if it was given, except in case of urgency, without the child having been given an opportunity to be heard, in violation of fundamental principles of procedure of the Member State in which recognition is sought;
 - (c) where it was given in default of appearance if the person in default was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable that person to arrange for his or her defense unless it is determined that such person has accepted the judgment unequivocally;
 - (d) on the request of any person claiming that the judgment infringes his or her parental responsibility, if it was given without such person having been given an opportunity to be heard;
 - (e) if it is irreconcilable with a later judgment relating to parental responsibility given in the Member State in which recognition is sought;
- or
- (f) if it is irreconcilable with a later judgment relating to parental responsibility given in another Member State or in the non-member State of the habitual residence of the child provided that the later judgment fulfils the conditions necessary for its recognition in the Member State in which recognition is sought.

*Article 29***Prohibition of review of jurisdiction of court of origin**

The jurisdiction of the court of the Member State of origin may not be reviewed. The test of public policy referred to in Articles 27 point (a) and 28 point (a) may not be applied to the rules relating to jurisdiction set out in Articles 5 to 9, 10 to 14 and 21.

*Article 30***Differences in applicable law**

The recognition of a judgment may not be refused because the law of the Member State in which such recognition is sought would not allow divorce, legal separation or marriage annulment on the same facts.

*Article 31***Non-review as to substance**

Under no circumstances may a judgment be reviewed as to its substance.

*Article 32***Stay of proceedings**

1. A court of a Member State in which recognition is sought of a judgment given in another Member State may stay the proceedings if an ordinary appeal against the judgment has been lodged.

2. A court of a Member State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the Member State of origin by reason of an appeal.

Section 2***Application for a declaration of enforceability****Article 33***Enforceable judgments**

1. A judgment on the exercise of parental responsibility in respect of a child given in a Member State which is enforceable in that Member State and has been served shall be enforced in another Member State when, on the application of any interested party, it has been declared enforceable there.

2. However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.

*Article 34***Jurisdiction of local courts**

1. An application for a declaration of enforceability shall be submitted to the court appearing in the list in Annex I.

2. The local jurisdiction shall be determined by reference to the place of the habitual residence of the person against whom enforcement is sought or by reference to the habitual residence of any child to whom the application relates.

Where neither of the places referred to in the first subparagraph can be found in the Member State of enforcement, the local jurisdiction shall be determined by reference to the place of enforcement.

*Article 35***Procedure**

1. The procedure for making the application shall be governed by the law of the Member State of enforcement.

2. The applicant must give an address for service within the area of jurisdiction of the court applied to. However, if the law of the Member State of enforcement does not provide for the furnishing of such an address, the applicant shall appoint a representative *ad litem*.

3. The documents referred to in Articles 42 and 44 shall be attached to the application.

*Article 36***Decision of the court**

1. The court applied to shall give its decision without delay. The person against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

2. The application may be refused only for one of the reasons specified in Articles 27, 28 and 29.

3. Under no circumstances may a judgment be reviewed as to its substance.

*Article 37***Notice of the decision**

The appropriate officer of the court shall without delay bring to the notice of the applicant the decision given on the application in accordance with the procedure laid down by the law of the Member State of enforcement.

*Article 38***Appeal against the decision**

1. The decision on the application for a declaration of enforceability may be appealed against by either party.

2. The appeal shall be lodged with the court appearing in the list in Annex II.

3. The appeal shall be dealt with in accordance with the rules governing procedure in contradictory matters.

4. If the appeal is brought by the applicant for a declaration of enforceability, the party against whom enforcement is sought shall be summoned to appear before the appellate court. If such person fails to appear, the provisions of Article 18 shall apply.

5. An appeal against a declaration of enforceability must be lodged within one month of service thereof. If the party against whom enforcement is sought is habitually resident in a Member State other than that in which the declaration of enforceability was given, the time for appealing shall be two months and shall run from the date of service, either on him or at his residence. No extension of time may be granted on account of distance.

*Article 39***Courts of appeal and means of contest**

The judgment given on appeal may be contested only by the proceedings referred to in Annex III.

*Article 40***Stay of proceedings**

1. The court with which the appeal is lodged under Articles 38 or 39 may, on the application of the party against whom

enforcement is sought, stay the enforcement proceedings if an ordinary appeal has been lodged in the Member State of origin or if the time for such appeal has not yet expired. In the latter case, the court may specify the time within which an appeal is to be lodged.

2. Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the Member State of origin shall be treated as an ordinary appeal for the purposes of paragraph 1.

*Article 41***Partial enforcement**

1. Where a judgment has been given in respect of several matters and enforcement cannot be authorised for all of them, the court shall authorise enforcement for one or more of them.

2. An applicant may request partial enforcement of a judgment.

*Article 42***Documents**

1. A party seeking or contesting recognition or applying for a declaration of enforceability shall produce:

(a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity;

and

(b) a certificate referred to in Article 44.

2. In addition, in the case of a judgment given in default, the party seeking recognition or applying for a declaration of enforceability shall produce:

(a) the original or certified true copy of the document which establishes that the defaulting party was served with the document instituting the proceedings or with an equivalent document;

or

(b) any document indicating that the defendant has accepted the judgment unequivocally.

*Article 43***Absence of documents**

1. If the documents specified in Article 42(1) point (b) or (2) are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

2. If the court so requires, a translation of such documents shall be furnished. The translation shall be certified by a person qualified to do so in one of the Member States.

*Article 44***Certificate concerning judgments in matrimonial matters and certificate concerning judgments on parental responsibility**

The competent court or authority of a Member State where a judgment was given shall issue, at the request of any interested party, a certificate using the standard form set up in Annex IV (judgments in matrimonial matters) or in Annex V (judgments on parental responsibility).

*Section 3****Enforcement concerning rights of access and the return of a child****Article 45***Scope**

1. This Section shall apply to:

(a) rights of access granted to one of the parents of a child

and

(b) the return of a child entailed by a judgment on custody given pursuant to Article 24, paragraph 3.

2. The provisions of this Section shall not prevent a holder of parental responsibility from seeking recognition and enforcement in accordance with the provisions in Sections 1 and 2 of this Chapter.

*Article 46***Rights of access**

1. The rights of access referred to in Article 45, paragraph 1, point (a) granted in an enforceable judgment given in a

Member State shall be recognised and enforced in all other Member States without any special procedure being required if the judgment fulfils the procedural requirements and has been certified in the Member State of origin in accordance with paragraph 2 of this Article.

2. The court of origin shall issue the certificate referred to in paragraph 1 only if:

(a) the judgment was not given in default of appearance;

and

(b) the child was given an opportunity to be heard, unless a hearing was considered inappropriate having regard to his or her age or degree of maturity.

The certificate is issued by the court of origin at the request of a holder of rights of access and using the standard form in Annex VI (certificate concerning rights of access).

It shall be completed in the language of the judgment.

*Article 47***Return of the child**

1. The return of a child referred to in Article 45, paragraph 1, point (b) entailed by an enforceable judgment given in a Member State shall be recognised and enforced in all other Member States without any special procedure being required if the judgment fulfils the procedural requirements and has been certified in the Member State of origin in accordance with paragraph 2 of this Article.

2. The court of origin shall issue the certificate referred to in paragraph 1 only if the child was given an opportunity to be heard, unless a hearing was considered inappropriate having regard to his or her age or degree of maturity.

The court of origin shall issue that certificate at its own initiative and using the standard form in Annex VII (certificate concerning return).

The certificate shall be completed in the language of the judgment.

*Article 48***Appeal**

No appeal shall lie against the issuing of a certificate pursuant to Articles 46(1) or 47(1).

*Article 49***Documents**

1. A party seeking enforcement of a judgment shall produce:

(a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity;

and

(b) the certificate referred to in Article 46(1) or Article 47(1).

2. For the purposes of this Article, the certificate referred to in Article 46(1) shall be accompanied, where necessary, by a translation of its point 10 relating to the arrangements for exercising the rights of access.

The translation shall be into the official language or one of the official languages of the Member State of enforcement or any other language that the Member State of enforcement expressly accepts. The translation shall be certified by a person qualified to do so in one of the Member States.

No translation of the certificate referred to in Article 47(1) shall be required.

*Section 4***Other provisions***Article 50***Enforcement procedure**

The enforcement procedure is governed by the law of the Member State of enforcement.

*Article 51***Practical arrangements for the exercise of rights of access**

1. The courts of the Member State of enforcement may make practical arrangements for organising the exercise of rights of access, if the necessary arrangements have not been made in the judgment of the Member State having jurisdiction as to the substance of the matter and provided the essential elements of this judgment are respected.

2. The practical arrangements made pursuant to paragraph 1 shall cease to apply pursuant to a later judgment by the courts of the Member State having jurisdiction as to the substance of the matter.

*Article 52***Legal aid**

An applicant who, in the Member State of origin, has benefited from complete or partial legal aid or exemption from costs or

expenses shall be entitled, in the procedures provided for in Articles 26, 33 and 51 to benefit from the most favourable legal aid or the most extensive exemption from costs and expenses provided for by the law of the Member State of enforcement.

*Article 53***Security, bond or deposit**

No security, bond or deposit, however described, shall be required of a party who in one Member State applies for enforcement of a judgment given in another Member State on the following grounds:

(a) that he or she is not habitually resident in the Member State in which enforcement is sought; or

(b) that he or she is either a foreign national or, where enforcement is sought in either the United Kingdom or Ireland, does not have his or her 'domicile' in either of those Member States.

*Article 54***Legalisation or other similar formality**

No legalisation or other similar formality shall be required in respect of the documents referred to in Articles 42, 43 and 49 or in respect of a document appointing a representative *ad litem*.

CHAPTER V

COOPERATION BETWEEN CENTRAL AUTHORITIES*Article 55***Designation**

Each Member State shall designate a central authority to assist with the application of this Regulation.

In addition to the central authority designated pursuant to paragraph 1, a Member State where two or more systems of law or sets of rules concerning matters governed by this Regulation apply in different territorial units may designate one authority for each territorial unit and specify their territorial competence. In these cases, communications may be sent either directly to the territorially competent authority, or to the central authority, which shall be responsible for forwarding them to the territorially competent authority and informing the sender thereof.

*Article 56***General functions**

The central authorities shall establish an information system on national laws and procedures and take general measures for improving the application of this Regulation and strengthening their cooperation, including developing cross-border cooperation mechanisms on mediation.

For this purpose the European Judicial Network in civil and commercial matters created by Decision 2001/470/EC shall be used.

*Article 57***Cooperation on specific cases**

The central authorities shall cooperate on specific cases, in particular for the purpose of ensuring the effective exercise of parental responsibility over a child. To this end, they shall, acting directly or through public authorities or other bodies in accordance with their laws:

(a) exchange information:

(i) on the situation of the child,

(ii) on any procedures under way, or

(iii) on decisions taken concerning the child;

(b) make recommendations, as appropriate, in particular with a view to coordinate a protective measure taken in the Member State where the child is present with a decision taken in the Member State that has jurisdiction as to the substance of the matter;

(c) take all necessary measures for locating and returning the child, including instituting proceedings to this end pursuant to Articles 22 to 24;

(d) provide information and assistance to holders of parental responsibility seeking to recognise and enforce decisions on their territory, in particular concerning rights of access and the return of the child;

(e) support communications between courts, in particular for the purpose of transferring a case pursuant to Article 15 or deciding in cases of child abduction pursuant to Articles 22 to 24;

and

(f) promote agreement between holders of parental responsibility through mediation or other means, and organise cross-border cooperation to this end.

*Article 58***Working method**

1. A holder of parental responsibility may submit a request for assistance to the central authority of the Member State of his or her habitual residence, or to the central authority of the Member State where the child is habitually resident or present. If the request for assistance makes reference to a judgment given pursuant to this Regulation, the holder of parental responsibility shall attach the relevant certificates provided for in Articles 44, 46(1) or 47(1).

2. Each Member State shall communicate to the Commission the official language(s) of the European Union other than its own which it can accept for communications to the central authorities.

3. The assistance provided by the central authorities pursuant to Article 57 shall be free of charge.

4. Each central authority shall bear its own costs.

*Article 59***Meetings**

The Commission shall convene meetings of central authorities, using the European Judicial Network in civil and commercial matters created by Decision 2001/470/EC.

CHAPTER VI

RELATIONS WITH OTHER INSTRUMENTS*Article 60***Relation with other instruments**

1. Subject to the provisions of Article 63 and paragraph 2 of this Article, this Regulation shall, for the Member States, supersede conventions existing at the time of entry into force of this Regulation which have been concluded between two or more Member States and relate to matters governed by this Regulation.

2. (a) Finland and Sweden shall have the option of declaring that the Convention of 6 February 1931 between Denmark, Finland, Iceland, Norway and Sweden comprising international private law provisions on marriage, adoption and guardianship, together with the Final Protocol thereto, will apply, in whole or in part, in their mutual relations, in place of the rules of this Regulation. Such declarations shall be annexed to this Regulation and published in the *Official Journal of the European Communities*. They may be withdrawn, in whole or in part, at any moment by the said Member States.

(b) The principle of non-discrimination on the grounds of nationality between citizens of the Union shall be respected.

(c) The rules of jurisdiction in any future agreement to be concluded between the Member States referred to in subparagraph (a) which relate to matters governed by this Regulation shall be in line with those laid down in this Regulation.

(d) Judgments handed down in any of the Nordic States which have made the declaration provided for in subparagraph (a) under a forum of jurisdiction corresponding to one of those laid down in Chapters II and III of this Regulation, shall be recognised and enforced in the other Member States under the rules laid down in Chapter IV of this Regulation.

3. Member States shall send to the Commission:

(a) a copy of the agreements and uniform laws implementing these agreements referred to in paragraph 2 points (a) and (c);

(b) any denunciations of, or amendments to, those agreements or uniform laws.

Article 61

Relations with certain multilateral conventions

In relations between Member States, this Regulation shall take precedence over the following Conventions in so far as they concern matters governed by this Regulation:

(a) the Hague Convention of 5 October 1961 concerning the Powers of Authorities and the Law Applicable in respect of the Protection of Minors;

(b) the Luxembourg Convention of 8 September 1967 on the Recognition of Decisions Relating to the Validity of Marriages;

(c) the Hague Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations;

(d) the European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children;

(e) the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction;

and

(f) the Hague Convention of 19 October 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children.

Article 62

Treaties with the Holy See

1. This Regulation shall apply without prejudice to the International Treaty (Concordat) between the Holy See and Portugal, signed at the Vatican City on 7 May 1940.

2. Any decision as to the invalidity of a marriage taken under the Treaty referred to in paragraph 1 shall be recognised in the Member States on the conditions laid down in Chapter IV, Section 1.

3. The provisions laid down in paragraphs 1 and 2 shall also apply to the following international treaties (Concordats) with the Holy See:

(a) Concordato lateranense of 11 February 1929 between Italy and the Holy See, modified by the agreement, with additional Protocol signed in Rome on 18 February 1984;

(b) Agreement between the Holy See and Spain on legal affairs of 3 January 1979.

4. Recognition of the decisions provided for in paragraph 2 may, in Italy or in Spain, be subject to the same procedures and the same checks as are applicable to decisions of the ecclesiastical courts handed down in accordance with the international treaties concluded with the Holy See referred to in paragraph 3.

5. Member States shall send to the Commission:

(a) a copy of the treaties referred to in paragraphs 1 and 3;

(b) any denunciations of or amendments to those treaties.

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 63

1. The provisions of this Regulation shall apply only to legal proceedings instituted, to documents formally drawn up or registered as authentic instruments and to settlements that have been approved by a court in the course of proceedings after its date of application in accordance with Article 71.

2. Judgments given after the date of application of this Regulation in proceedings instituted before that date but after the date of entry into force of Regulation (EC) No 1347/2000 shall be recognised and enforced in accordance with the provisions of Chapter IV of this Regulation if jurisdiction was founded on rules which accorded with those provided for either in Chapters II or III of this Regulation or in Regulation (EC) No 1347/2000 or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.

3. Judgments given before the date of application of this Regulation in proceedings instituted after the entry into force of Regulation (EC) No 1347/2000 shall be recognised and enforced in accordance with the provisions of Chapter IV of this Regulation provided they relate to divorce, legal separation or marriage annulment or parental responsibility for the children of both spouses on the occasion of these matrimonial proceedings.

4. Judgments given before the date of application of this Regulation but after the date of entry into force of Regulation (EC) No 1347/2000 in proceedings instituted before the date of entry into force of Regulation (EC) No 1347/2000 shall be recognised and enforced in accordance with the provisions of Chapter IV of this Regulation provided they relate to divorce, legal separation or marriage annulment or parental responsibility for the children of both spouses on the occasion of these matrimonial proceedings and that jurisdiction was founded on rules which accorded with those provided for either in Chapters II or III of this Regulation or in Regulation (EC) No 1347/2000 or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.

- (c) any reference to the authority of a Member State shall refer to the authority of a territorial unit within that State which is concerned;
- (d) any reference to the rules of the requested Member State shall refer to the rules of the territorial unit in which jurisdiction, recognition or enforcement is invoked.

Article 65

Information on central authorities and languages

The Member States shall communicate to the Commission within three months following the entry into force of this Regulation

- (a) the names, addresses and means of communication for the central authorities designated pursuant to Article 55;
 - (b) the languages accepted for communications to central authorities pursuant to Article 58, paragraph 2;
- and
- (c) the languages accepted for the certificate concerning rights of access pursuant to Article 49, paragraph 2.

The Member States shall communicate to the Commission any changes to this information.

The Commission shall make this information publicly available.

CHAPTER VIII

FINAL PROVISIONS

Article 64

Member States with two or more legal systems

With regard to a Member State in which two or more systems of law or sets of rules concerning matters governed by this Regulation apply in different territorial units:

- (a) any reference to habitual residence in that Member State shall refer to habitual residence in a territorial unit;
- (b) any reference to nationality, or in the case of the United Kingdom 'domicile', shall refer to the territorial unit designated by the law of that State;

Article 66

Amendments to Annexes I, II and III

The Member States shall notify the Commission of the texts amending the lists of courts and redress procedures in Annexes I to III.

The Commission shall adapt the Annexes concerned accordingly.

Article 67

Amendments to Annexes IV to VII

Any amendments to the standard forms in Annexes IV to VII shall be adopted in accordance with the procedure set out in Article 68(2).

*Article 68***Committee**

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representatives of the Commission.
2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) thereof.
3. The committee shall adopt its rules of procedure.

*Article 69***Repeal of Regulation (EC) No 1347/2000**

1. Regulation (EC) No 1347/2000 shall be repealed as from the date of application of this Regulation in accordance with Article 71.
2. Any reference to Regulation (EC) No 1347/2000 shall be construed as a reference to this Regulation according to the comparative table in Annex VIII.

*Article 70***Amendment of Regulation (EC) No 44/2001**

Article 5, point 2 of Regulation (EC) No 44/2001 shall be replaced by the following:

- ‘2. in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties, or, if the matter is ancillary to proceedings concerning parental responsibility, in the court which according to Council Regulation (EC) No ... (on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility) (*), has jurisdiction to entertain those proceedings

(*) OJ L ...’

*Article 71***Entry into force**

This Regulation shall enter into force on 1 July 2003.

The Regulation shall apply from 1 July 2004, with the exception of Article 65, which shall apply from 1 July 2003.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

ANNEX I

The applications provided for by Articles 26 and 33 shall be submitted to the following courts:

- in Belgium, the ‘tribunal de première instance’/‘rechtbank van eerste aanleg’/‘erstinstanzliches Gericht’,
- in Germany:
 - in the district of the ‘Kammergericht’ (Berlin), the ‘Familiengericht Pankow/Weißensee’,
 - in the districts of the remaining ‘Oberlandesgerichte’ to the ‘Familiengericht’ located at the seat of the respective ‘Oberlandesgericht’
- in Greece, the ‘Μονομελές Πρωτοδικείο’,
- in Spain, the ‘Juzgado de Primera Instancia’,
- in France, the presiding Judge of the ‘Tribunal de grande instance’,
- in Ireland, the High Court,
- in Italy, the ‘Corte d’appello’,
- in Luxembourg, the presiding Judge of the ‘Tribunal d’arrondissement’,
- in the Netherlands, the presiding Judge of the ‘arrondissementsrechtbank’,
- in Austria, the ‘Bezirksgericht’,
- in Portugal, the ‘Tribunal de Comarca’ or ‘Tribunal de Família’,
- in Finland, the ‘käräjäoikeus’/‘tingsrätt’,
- in Sweden, the ‘Svea hovrätt’,
- in the United Kingdom:
 - (a) in England and Wales, the High Court of Justice;
 - (b) in Scotland, the Court of Session;
 - (c) in Northern Ireland, the High Court of Justice;
 - (d) in Gibraltar, the Supreme Court.

ANNEX II

The appeal provided for by Article 38 shall be lodged with the courts listed below:

- in Belgium:
 - (a) a person applying for a declaration of enforceability may lodge an appeal with the ‘cour d’appel’ or the ‘hof van beroep’;
 - (b) the person against whom enforcement is sought may lodge opposition with the ‘Tribunal de première instance’/‘rechtbank van eerste aanleg’/‘erstinstanzliches Gericht’,
- in Germany, the ‘Oberlandesgericht’,
- in Greece, the ‘Εφετείο’,
- in Spain, the ‘Audiencia Provincial’,
- in France, the ‘Cour d’appel’,

- in Ireland, the High Court,
 - in Italy, the 'Corte d'appello',
 - Luxembourg, the 'Cour d'appel',
 - in the Netherlands:
 - (a) if the applicant or the respondent who has appeared lodges the appeal: with the 'gerechtshof';
 - (b) if the respondent who has been granted leave not to appear lodges the appeal: with the 'arrondissements-rechtbank',
 - in Austria, the 'Bezirksgericht',
 - in Portugal, the 'Tribunal da Relação',
 - in Finland, the 'hovioikeus'/hovrätt',
 - in Sweden, the 'Svea hovrätt',
 - in the United Kingdom:
 - (a) in England and Wales, the High Court of Justice;
 - (b) in Scotland, the Court of Session;
 - (c) in Northern Ireland, the High Court of Justice;
 - (d) in Gibraltar, the Court of Appeal.
-

ANNEX III

The appeals provided for by Article 39 may be brought only:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
 - in Germany, by a 'Rechtsbeschwerde',
 - in Ireland, by an appeal on a point of law to the Supreme Court,
 - in Austria, by a 'Revisionsrekurs',
 - in Portugal, by a 'recurso restrito à matéria de direito',
 - in Finland, by an appeal to 'korkein oikeus'/högsta domstolen',
 - in Sweden, by an appeal to the 'Högsta domstolen',
 - in the United Kingdom, by a single further appeal on a point of law.
-

ANNEX IV

Certificate referred to in Article 44 concerning judgments in matrimonial matters

1. Country of origin
2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./fax/E-mail
3. Marriage
 - 3.1. Wife
 - 3.1.1. Full name
 - 3.1.2. Country and place of birth
 - 3.1.3. Date of birth
 - 3.2. Husband
 - 3.2.1. Full name
 - 3.2.2. Country and place of birth
 - 3.2.3. Date of birth
 - 3.3. Country, place (where available) and date of marriage
 - 3.3.1. Country of marriage
 - 3.3.2. Place of marriage (where available)
 - 3.3.3. Date of marriage
4. Court which delivered the judgment
 - 4.1. Name of Court
 - 4.2. Place of Court
5. Judgment
 - 5.1. Date
 - 5.2. Reference number
 - 5.3. Type of judgment
 - 5.3.1. Divorce
 - 5.3.2. Marriage annulment
 - 5.3.3. Legal separation
 - 5.4. Was the judgment given in default of appearance?
 - 5.4.1. No
 - 5.4.2. Yes ⁽¹⁾
6. Names of parties to whom legal aid has been granted
7. Is the judgment subject to further appeal under the law of the Member State of origin?
 - 7.1. No
 - 7.2. Yes
8. Date of legal effect in the Member State where the judgment was given
 - 8.1. Divorce
 - 8.2. Legal separation

Done at ..., date ... Signature and/or stamp

⁽¹⁾ Documents referred to in Article 42(2) must be attached.

ANNEX V

Certificate referred to in Article 44 concerning judgments on parental responsibility

1. Country of origin
2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./Fax/E-mail
3. Holders of parental responsibility
 - 3.1. Mother
 - 3.1.1. Full name
 - 3.1.2. Date and place of birth
 - 3.2. Father
 - 3.2.1. Full name
 - 3.2.2. Date and place of birth
 - 3.3. Other
 - 3.3.1. Full name
 - 3.3.2. Date and place of birth
4. Court which delivered the judgment
 - 4.1. Name of Court
 - 4.2. Place of Court
5. Judgment
 - 5.1. Date
 - 5.2. Reference number
 - 5.3. Was the judgment given in default of appearance?
 - 5.3.1. No
 - 5.3.2. Yes ⁽¹⁾
6. Children who are covered by the judgment ⁽²⁾
 - 6.1. Full name and date of birth
 - 6.2. Full name and date of birth
 - 6.3. Full name and date of birth
 - 6.4. Full name and date of birth
7. Names of parties to whom legal aid has been granted
8. Attestation of enforceability and service
 - 8.1. Is the judgment enforceable according to the law of the Member State of origin?
 - 8.1.1. Yes
 - 8.1.2. No
 - 8.2. Has the judgment been served on the party against whom enforcement is sought?
 - 8.2.1. Yes
 - 8.2.1.1. Full name of the party
 - 8.2.1.2. Date of service
 - 8.2.2. No

Done at ..., date ... Signature and/or stamp

⁽¹⁾ Documents referred to in Article 42(2) must be attached.

⁽²⁾ If more than four children are covered, use a second form.

ANNEX VI

Certificate referred to in Article 46(1) concerning judgments on rights of access

1. Country of origin
2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./Fax/E-mail
3. Parents
 - 3.1. Mother
 - 3.1.1. Full name
 - 3.1.2. Date and place of birth
 - 3.2. Father
 - 3.2.1. Full name
 - 3.2.2. Date and place of birth
4. Court which delivered the judgment
 - 4.1. Name of Court
 - 4.2. Place of Court
5. Judgment
 - 5.1. Date
 - 5.2. Reference number
6. Children who are covered by the judgment ⁽¹⁾
 - 6.1. Full name and date of birth
 - 6.2. Full name and date of birth
 - 6.3. Full name and date of birth
 - 6.4. Full name and date of birth
7. The judgment is enforceable according to the law of the Member State of origin ☐
8. The judgment was not given in default of appearance ☐
9. The children were given an opportunity to be heard, unless a hearing was considered inappropriate having regard to their age or degree of maturity ☐
10. Arrangements for the exercise of rights of access
 - 10.1. Date
 - 10.2. Place
 - 10.3. Specific obligations on holders of parental responsibility for picking up/returning the children
 - 10.3.1. Responsibility for transport costs
 - 10.3.2. Other
 - 10.4. Any restrictions attached to the exercise of rights of access
11. Names of parties to whom legal aid has been granted

Done at ..., date ... Signature and/or stamp

⁽¹⁾ If more than four children are covered, use a second form.

ANNEX VII

Certificate referred to in Article 47(1) concerning return

1. Country of origin
2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./Fax/E-mail
3. Holders of parental responsibility
 - 3.1. Mother
 - 3.1.1. Full name
 - 3.1.2. Date and place of birth
 - 3.2. Father
 - 3.2.1. Full name
 - 3.2.2. Date and place of birth
 - 3.3. Other
 - 3.3.1. Full name
 - 3.3.2. Date and place of birth
4. Court which delivered the judgment
 - 4.1. Name of Court
 - 4.2. Place of Court
5. Judgment
 - 5.1. Date
 - 5.2. Reference number
6. Children who are covered by the judgment ⁽¹⁾
 - 6.1. Full name and date of birth
 - 6.2. Full name and date of birth
 - 6.3. Full name and date of birth
 - 6.4. Full name and date of birth
7. The children were given an opportunity to be heard, unless a hearing was considered inappropriate having regard to their age or degree of maturity ☐
8. The judgment entails the return of the children ☐
9. Person who has custody over the children
10. Names of parties to whom legal aid has been granted

Done at ..., date ... Signature and/or stamp

⁽¹⁾ If more than four children are covered, use a second form.

ANNEX VIII

Comparative table with Regulation (EC) No 1347/2000

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