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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 411 final
Subject:	Proposal for a COUNCIL REGULATION on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

Delegations will find attached document COM(2016) 411 final.

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Proposal for a

COUNCIL REGULATION

on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

{SWD(2016) 207 final}
{SWD(2016) 208 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal is a recast of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (hereafter "Brussels IIa Regulation").

The Brussels IIa Regulation is the cornerstone of judicial cooperation in family matters in the European Union. It establishes uniform jurisdiction rules for divorce, separation and the annulment of marriage as well as for disputes about parental responsibility in cross-border situations. It facilitates the free circulation of judgments, authentic instruments and agreements in the Union by laying down provisions on their recognition and enforcement in other Member States. It applies since 1 March 2005 to all Member States[1] except Denmark[2].

Ten years after the entry into application of the Regulation, the Commission has assessed the operation of the Regulation in practice and considered necessary amendments to the instrument in its application report adopted in April 2014[3]. This is an initiative within the Regulatory Fitness Programme (REFIT). In addition, the European Court of Justice (CJEU) has so far rendered 24 judgments concerning the interpretation of the Regulation which were taken into account.

The objective of the recast is to further develop the European area of Justice and Fundamental Rights based on Mutual Trust by removing the remaining obstacles to the free movement of judicial decisions in line with the principle of mutual recognition and to better protect the best interests of the child by simplifying the procedures and enhancing their efficiency.

The Juncker Commission's Political Guidelines[4] emphasise that judicial cooperation among EU Member States must be improved step by step keeping up with the reality of increasingly mobile citizens across the Union getting married and having children, by building bridges between the different justice systems and by mutual recognition of judgments, so that citizens can more easily exercise their rights across the Union.

While the Regulation is overall considered to work well, the consultation of stakeholders and a number of studies have revealed several deficiencies in the current operation of the Regulation which should be remedied. Among the two areas covered by the Regulation, the matrimonial and parental responsibility matters, the latter were identified to have caused acute problems which need to be addressed urgently.

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1 To those Member States which joined the Union after this date, the Regulation applies from the beginning of their membership (Bulgaria and Romania: 1 January 2007, Croatia: 1 July 2013).

2 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 on the Functioning of the European Union, does not participate in the Regulation and is therefore neither bound by it nor subject to its application.

3 COM(2014) 225 final.

4 A new start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission, Jean-Claude Juncker, Strasbourg, 15 July 2014.

As regards matrimonial matters, only limited evidence of existing problems (including statistics) was available at this stage to allow for a precise indication of the need to intervene and the scale of the problems, and for a fully informed choice of any considered option. Furthermore, since the adoption of the Brussels IIa Regulation, three more EU instruments facilitating the handling of matrimonial matters in case of divorce of an international couple have been adopted. The Rome III Regulation[5] contains rules on the law applicable to divorce, and the Maintenance Regulation[6] addresses jurisdiction and applicable law concerning maintenance for spouses and children. Moreover, the Council most recently authorised enhanced cooperation with respect to the property aspects of international couples.[7]

Essentially, six main shortcomings concerning parental responsibility matters could be identified:

Child return procedure

In cases of parental child abduction timing is key to the successful operation of the child return procedure established in the Regulation. It appeared however that the immediate return of the child could not be ensured in all cases. Inefficiency of the return proceedings can be attributed to several aspects. The six-week time limit to issue a return order proved inadequate in practice since there are doubts among judges and practitioners whether the six weeks apply per instance, include appeals or even the enforcement of a return decision. In addition, the current Regulation sets no time limit for the processing of an application by the receiving Central Authority. Furthermore, problems in meeting the deadline have been attributed in particular to the lack in national law of a limitation of the number of appeals that can be brought against a return order. Delays in handling cases were also caused by a lack of specialisation of the courts dealing with return applications in several Member States. These cross-border abduction cases are complex and sensitive but arise only infrequently for the individual judge when handled by every individual local family court. As a result judges are less familiar with the procedures and provisions involved and have less opportunity to liaise in a routine way with other EU jurisdictions in a manner favourable to the building of mutual trust.

Finally, the so-called "overriding mechanism" constitutes an addition to what has been provided for in the 1980 Hague Convention[8] and is thought to have a stronger deterrent effect on the potential abducting parent. It lays down the procedure to be followed after a non-return order was issued in the State of refuge on the basis of Article 13 of the 1980 Hague Convention. The practical application of the "overriding mechanism" has proven difficult because the custody proceedings do not take place in the Member State where the child is present and because the abducting parent is often not cooperative. In particular, it is often difficult to hear the child.

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5 Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation (OJ L 343, 29.12.2010, p. 10).

6 Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7, 10.0.2001, p. 1).

7 On 3 March 2016, the Commission presented to the Council a Proposal for a 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, and submitted two implementing regulations. The Council adopted the Decision on 9 June 2016.

8 Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereafter "the 1980 Hague Convention").

Placement of the child in another Member State

A court or authority envisaging the placement of a child in a foster family or an institution in another Member State has to *consult* the authorities of that State before ordering the placement. Central Authorities which have an obligation to assist courts and authorities in arranging cross-border placements have regularly reported that sometimes it takes several months until it is established whether consent is required in a particular case. If consent is required, the consultation procedure as such has to follow and is reported to be equally lengthy as there is no deadline for requested authorities to reply. As a result, in practice many requesting authorities order the placement and send the child to the receiving State while the consultation procedure is still pending or even at the moment it is initiated because they consider the placement as urgent and are aware of the length of proceedings. Receiving States therefore complained that children were often already placed before consent had been given, leaving the children in a situation of legal uncertainty.

The requirement of exequatur

The procedure for declaring a decision given in another Member State enforceable ("exequatur") remains an obstacle to the free circulation of decisions which entails unnecessary costs and delays for parents and their children involved in cross-border proceedings. The time for obtaining *exequatur* varies between the Member States; it can take from a couple of days to several months, depending on the jurisdiction and the complexity of the case. The time indicated does not take into account the time required for collecting the documents necessary for the application and translations. If an appeal is lodged against the grant or refusal of *exequatur*, this delay increases considerably: appeal proceedings can take up to two years in some Member States. This is particularly frustrating for parents who expect that decisions concerning children take effect without unnecessary delay.

There might also be contradictory situations where a Member State must enforce access rights under the Regulation while, at the same time, the recognition and/or enforcement of custody rights granted in the same decision may be challenged and perhaps refused in the same Member State because decisions on both rights are currently subject to different procedures under the Regulation.

Hearing of the child

There are discrepancies in the interpretation of the grounds for non-recognition of decisions given in other Member States, in particular in relation to the hearing of the child. The Regulation is based on the principle that children's views must be taken into account in cases concerning them as long as this is appropriate in light of their age and maturity and in line with their best interests. Difficulties arise due to the fact that Member States have diverging rules governing the hearing of the child. In particular, Member States with stricter standards regarding the hearing of the child than the Member State of origin of the decision are encouraged by the current rules to refuse recognition and *exequatur* if the hearing of the child does not meet their own standards. In addition, the importance of hearing children is not highlighted in the Regulation in general terms for all cases on matters of parental responsibility, but only in relation to return proceedings. If a decision is given without having heard the child, there is a danger that the decision may not take the best interests of the child into account to a sufficient extent.

Actual enforcement of decisions

Decisions on parental responsibility are often enforced late or not at all. Efficient enforcement depends on the national structures put in place to ensure enforcement. The legal and practical approach to the enforcement of family decisions varies among Member States, in particular with regard to the enforcement measures taken. Once an order has been made, it is important to have effective measures available for enforcing it while it has to be borne in mind that for enforcement against children, it must still be possible to react quickly to any temporary or permanent risks to the child's best interests which might be caused by enforcement.

Cooperation between the Central Authorities

The cooperation between Central Authorities in specific cases on parental responsibility, contained in Article 55, is essential to support effectively parents and children involved in cross-border proceedings relating to child matters. A problem observed by all stakeholders, including Member States, is the unclear drafting of the article setting out the assistance to be provided by Central Authorities in specific cases on parental responsibility. This has led to delays which were detrimental to children's best interests. According to the results of the consultation, the article does not constitute a sufficient legal basis for national authorities in some Member States to take action because their national law would require a more explicit autonomous legal basis in the Regulation.

- **Consistency with existing policy provisions in the policy area**

The proposal takes account of other instruments, in particular other EU Regulations in the area of family law and international instruments such as the 1980[9] and 1996[10] Hague Conventions.

With respect to the parental responsibility matters (custody, access, child protection) the courts of the Member States are bound by the *jurisdiction* rules of the Regulation. There are no other EU instruments dealing with this aspect. The aim of the 1980 Hague Convention is to protect the jurisdiction of the State of habitual residence of the child in cases of cross-border child abduction. Both in intra-EU cases and cases in relation to third States, the *law applicable to parental responsibility matters* is determined by the 1996 Hague Convention.

In matrimonial matters, the Brussels IIa Regulation regulates the *jurisdiction* of the courts of the Member States for divorce, legal separation and the annulment of marriages. Rules to determine *which law applies* to these questions are determined in accordance with the Rome III Regulation, established as an instrument of enhanced cooperation, in the Member States which apply it.

The recognition and enforcement of decisions given in another Member State on matrimonial or parental responsibility matters are governed by the Brussels IIa Regulation.

There is an indirect link with the Maintenance Regulation; the scope of the latter relates to maintenance obligations arising from a family relationship while maintenance is excluded from the scope of the Brussels IIa Regulation. Pursuant to the Maintenance Regulation, courts

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9 *Supra* note 8.

10 Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (hereafter "the 1996 Hague Convention").

having jurisdiction under the Brussels IIa Regulation will normally also have ancillary jurisdiction for maintenance.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for Union action in family matters is established in Article 81 (3) of the Treaty on the Functioning of the European Union. Article 81(1) states that the Union is to 'develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases'.

• Subsidiarity (for non-exclusive competence)

The Union has shared competence under Article 81 TFEU which it has already exercised by enacting the Brussels IIa Regulation. The different elements of the proposal comply with the requirements of subsidiarity. The overriding return mechanism of the Regulation applies solely to cross-border child abduction cases. Improvements undertaken so far in single Member States have proven not to have an impact on the return procedure as a whole since smooth operation of the system presupposes efficiency, close cooperation and mutual trust between both Member States involved in a case.

As regards placement decisions, in 2012 the Court of Justice ruled that "Member States are (…) required to establish clear rules and procedures for the purposes of the consent referred to in Article 56 of the Regulation, in order to ensure legal certainty and expedition. The procedures must, inter alia, enable the court which contemplates the placement easily to identify the competent authority and the competent authority to grant or refuse its consent promptly." Nonetheless, the different national rules are not implementing the provision on cross-border placements in a coherent and uniform manner and are unlikely to do so in the future. Even if they did, the necessary coordination between the national rules could not be achieved at national level. Therefore only the creation of autonomous minimum rules in the Regulation, applicable to all cross-border placements originating from a court or authority in a Member State, can remedy this problem.

The abolition of *exequatur* cannot be achieved by the Member States individually because the procedure has already been harmonised by the Brussels IIa Regulation and can, therefore, only be amended by way of a regulation. The same reasoning applies for the improvement of the existing rules on the cooperation between Member States' Central Authorities.

With regard to enforcement which as such is a matter for the Member States, the CJEU has stated that the application of national rules for enforcement should not prejudice the useful effect of the Regulation[11]. Article 81 para. 2 (f) allows at EU level the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States. In addition, a minimum harmonisation is justified to reach the objective of mutual recognition of decisions. Where there are negative consequences resulting from inefficient enforcement procedures, these need to be addressed at EU level so that a successful outcome can be equally guaranteed in all Member States.

[11] CJEU 11 July 2008, Case C-195/08 PPU – *Inga Rinau*, para. 82.

- **Proportionality**

The proportionality principle requires measures taken to be proportionate to the size and extent of the problems.

National substantive rules will to some extent be affected by the proposed action, insofar as common standards on enforcement are proposed. This is, however, justified by the aim of ensuring full efficiency of the Regulation and the fact that for individuals to be able to fully exercise their rights wherever they might be in the Union, the incompatibilities between judicial and administrative systems between Member States have to be removed. The evaluation has shown indeed that national grounds of refusal on enforcement may duplicate with the existing refusal grounds under the Regulation. Because of the different standards for applying such grounds under the Regulation and under national law, national grounds may in reality undermine the uniform and smooth application of the European rules. In order to ensure uniformity and thus to create a level playing field for all citizens in the Union, it is therefore necessary to harmonise national grounds of refusal insofar as they are invoked against enforcement of a decision given in another Member State.

There is a large and growing number of EU citizens that are affected directly and indirectly by cross-border child related proceedings. The costs of the proposal are modest and the benefits are, in comparison, very large. The proposal strengthens legal certainty, increases flexibility, ensures access to court and efficient proceedings whilst Member States retain full sovereignty with regard to the substantive laws on parental responsibility.

- **Choice of the instrument**

The proposal takes the form of a Regulation recasting with amendments and replacing an existing one.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The evaluation of the Regulation was carried out in light of the objectives of the Regulatory Fitness and Performance Programme (REFIT)[12]. This is the Commission's programme to ensure that EU legislation is fit for purpose and delivers the results intended by EU law makers. The evaluation of the Regulation is based on a qualitative and quantitative analysis. Empirical data was collected through an external study; see Final Evaluation Report and Analytical Annexes[13] to evaluate the *relevance*, c*oherence*, e*ffectiveness*, e*fficiency*, as well as *EU added value and utility* of the Regulation. In addition, two surveys were launched in 2015 to collect specific data concerning parental responsibility decisions.

While the Regulation is considered to be functioning well overall and to be delivering value to EU citizens, the operational functioning of the instrument is at times hampered by a series

[12] Better regulation for better results - An EU agenda, COM(2015) 215 final.

[13] Study on the assessment of Regulation (EC) 2201/2003 and the policy options for its amendment; see (Final Evaluation Report) at http://ec.europa.eu/justice/civil/files/bxl_iia_final_report_evaluation.pdf and (Analytical Annexes) http://ec.europa.eu/justice/civil/files/bxl_iia_final_report_analtical_annexes.pdf.

of legal issues; the current legal text is insufficiently clear or is incomplete on some points[14]. This is considered in particular the case for the child return procedure and for the cooperation between the Central Authorities on parental responsibility matters[15].

The evaluation showed that between the two major areas covered by the Regulation, the matrimonial and parental responsibility matters, the latter were identified to have caused acute problems. The overall *efficiency* of certain aspects of the child-related proceedings has been called into question[16]. In matters concerning parental child abduction, cross-border placement of children, recognition and enforcement of decisions and cooperation between (central and other) national authorities there are excessive and undue delays arising from the way the existing procedures are formulated or applied[17]. This has had a negative impact on parent-child relationships and the best interests of children. In addition, the requirement of *exequatur* generated average delays per case of several months and costs reaching up to 4,000 Euro for citizens[18]. The vague description of the cooperation between Central Authorities has often led to delays of several months or even to the non-fulfilment of requests[19] – which is detrimental to children's welfare. The enforcement of decisions given in another Member State was identified as problematic[20]; decisions are often not enforced or only with significant delays. In addition, the work of specialised lawyers generates costs for parents between € 1,000 and 4,000 per case[21]. For the Member States, on the other hand, the Regulation itself has generated very limited costs; these mainly relate to the operation of the Central Authorities[22].

- **Stakeholder consultations**

This proposal was preceded by an extensive consultation of the interested public, Member States, institutions and experts on the existing problems of the current system and possible solutions to it. On 15 April 2014, the Commission adopted a report on the application of the Regulation[23] and launched a public consultation in which it put forward suggestions for the revision on which a total of 193 responses was received[24]. It results from the consultation process that stakeholders support the need for a carefully targeted reform of the existing Regulation.

In cases concerning parental child abduction, the majority of respondents to the public consultation think that the immediate return of the child within the EU was not ensured in all cases. The main suggestions for improvement arose with respect to a stricter time-frame compliance and applying sanctions in cases where the obligation to return the child was not fulfilled[25].

While parents are the most prominent group who sought to expand the abolition of *exequatur*, followed by judges and lawyers, some Member States indicated that *exequatur* should not be abolished without maintaining certain safeguards. It was recommended that in case of

14 See in particular: Final Evaluation Report, p. 53.
15 See in particular: Impact Assessment, p. 11.
16 See in particular: Final Evaluation Report, p. 57.
17 See in particular: Impact Assessment, p. 36, 37, 52, 60 and 86.
18 See in particular: Impact Assessment, p. 61.
19 See in particular: Analytical Annexes, p. 92.
20 See in particular: Analytical Annexes, p. 65.
21 See in particular: Impact Assessment, p. 87.
22 See in particular: Analytical Annexes, p. 265.
23 COM(2014) 225 final.
24 The summary of the responses to the public consultation is contained in the Analytical Annexes, p. 127.
25 Analytical Annexes, p. 151.

abolition of *exequatur* safeguards be put in place in relation to areas such as the rights of parties and the child to be heard and the proper service of documents[26].

A significant number of respondents considered enforcement of parental responsibility decisions which were given in another Member State as an important area for improvement. The main suggestion from legal practitioners involved the adoption of common minimum standards including a uniform enforcement procedure while Member States were sceptical towards such a solution[27].

Finally, parents have particularly expressed their concern as regards the cooperation between the Central Authorities whose statutory role is to support them in cross-border child-related proceedings. Lack of efficient cooperation was a main feature of most of the respondents' answers. To resolve this, the respondents recommend a better clarification of the tasks so to better support the parents. Similarly, respondents supported the inclusion of child welfare authorities into the cooperation system to ensure the smooth operation of the Regulation[28].

The outcome of the public consultation confirms in general the findings of the Commission's application report adopted in 2014.

- **Collection and use of expertise**

The availability and completeness of the statistics on the application of the Regulation is limited and differs widely across Member States. The qualitative and quantitative analysis of the operation of the Regulation was carried out through an external study. In addition to the study, two surveys – one with the Central Authorities established under the Regulation and another one with Member States – were launched in 2015 to collect specific data concerning parental responsibility decisions. In addition, a separate expert group was constituted with a view to discussing problems and potential solutions for the revision. The functioning of the Regulation was also regularly discussed in several meetings of the Central Authorities organised in the framework of the European Judicial Network in civil and commercial matters.

- **Impact assessment**

In the Impact Assessment accompanying this proposal, the policy options and their impact assessment were dealt with separately for each of the issues identified as problematic in the evaluation of the Regulation. For all issues a baseline scenario and alternative options were developed. For matrimonial and parental responsibility matters, policy options with different degrees of intervention were considered. For the child abduction procedure, mere clarifications of the current mechanism alongside an option foreseeing a list of flanking measures were taken into consideration. In addition, two options were developed to assess possible radical changes of the return mechanism (a return to the "Hague" system and a creation of a unique forum in the Member State of origin). For the placement mechanism, two options were proposed to choose between a system either with presumed or explicit consent. With regard to recognition and enforcement, both main policy options do away with the *exequatur* requirement or propose a new procedure to respond best to the inefficiency problem. The new proposed system was supplemented by three alternative sub-options tackling the problem of hearing the child. Also, two complementary options were considered

[26] Analytical Annexes, p. 153.
[27] Analytical Annexes, p. 156.
[28] Analytical Annexes, p. 159.

to improve enforcement either through an indicative time-limit or through a full harmonisation of the enforcement law for parental responsibility decisions.

The assessment finishes with the comprehensive preferred options for all issues presented in the report. For matrimonial matters, the preferred policy option is retaining the *status quo*. This means that spouses in an international marriage will continue to have a possibility to consolidate the different proceedings as currently permitted by the Regulation and other family law instruments (such as the Maintenance Regulation). At the same time, the flexibility for the spouses to apply for a divorce in one of the fora indicated in the Regulation will be maintained. The benefits of reducing or abolishing this flexibility (favoured by some Member States) would be outweighed by the disadvantages of the options considered to respond to the "rush to court" problem (transfer of jurisdiction or hierarchy of grounds) signalled by other Member States. Also, spouses not having a common EU nationality who live in a third State but retain links with a certain Member State and want to get divorced will continue to rely on the national rules to access EU courts or to have their decision (obtained in a third country) recognised in the EU.

With regard to parental responsibility matters, the preferred option is for an EU intervention as motivated by the scale and urgency of the problem. More specifically, the child return procedure should be improved through an option clarifying the current mechanism and introducing new measures such as concentration of jurisdiction and the possibility for the court of refuge to order urgent protective measures which can also "travel with the child" to the State of habitual residence if necessary to enable a safe return. The new rules would make the time limit for the return achievable by specifying the time frame for the proceedings before the courts of the first and second instance separately. Proceedings would be shortened by introducing a time limit also for the requested Central Authority, and by limiting the number of appeals possible against a decision on return or non-return to one. The preferred option would explicitly invite the judge to consider whether the decision should be provisionally enforceable.

For placement decisions an autonomous consent procedure should be established to be applied to all cross-border placements, flanked by a time limit for the requested Member State to respond to the request.

Exequatur would be abolished while maintaining appropriate safeguards (grounds for non-recognition and challenges against enforcement as such or against specific enforcement measures) to be invoked jointly by the defendant parent at the stage of enforcement in the Member State of enforcement, thereby shortening the overall duration of the proceedings. To diminish problems resulting from different national practices for hearing children and from decisions issued by courts lacking a close connection with the child at the time of decision, and the resulting refusals of the recognition of the decision, the preferred option would require Member States to mutually respect their national rules while obliging them to give the child the opportunity to express his or her views and take due account of them, and bring the jurisdiction in line with the guiding principle of proximity to the child by nuancing *perpetuatio fori*. As far as enforcement is concerned, the preferred option would guarantee that enforcement could only be refused on the basis of a uniform and limited list of grounds for refusal. There would also be a time limit indicated for enforcement with a reporting obligation where this is surpassed and the possibility for the court of origin to declare a decision provisionally enforceable notwithstanding any appeal against the decision while leaving leeway to deal with urgent risks to the child's best interests at the enforcement stage,

which would in turn clearly enhance the efficiency of the proceedings and the protection of the best interests of the child.

With regard to cooperation, a clarification of the respective article should specify: (1) who can ask (2) which assistance or information (3) from whom and (4) under which conditions. A time limit would be indicated for the requested authority to respond. It would be made clear that also courts and child welfare authorities can request the assistance of Central Authorities. In addition, the well-established soft law measures would be continued to provide an ongoing supporting structure for those handling applications under the Regulation. The addition of the proposed article on adequate resources would render explicit the current implicit requirement which is presently met in the case of certain Central Authorities, but not all, and would thereby increase mutual trust.

The preferred package of policy options for parental responsibility matters would meet the simplification objectives by reducing delays relating to the return of the child, the placement decisions, and cooperation between the Central Authorities, and eliminate unnecessary delays and costs related to the *exequatur* requirement. At the same time it would also respond to the urgency of remedying the problems currently faced in this area, where it is of outmost importance to act and set the scene for changes keeping in mind the situation of children, families and their best interests.

The efficiency of the proceedings would be improved, as regards the child return procedure, by reducing the number of levels of appeal, providing for provisional enforceability of decisions where appropriate, by defining the role and duties of Central Authorities more clearly and obliging Member States to concentrate jurisdiction in a limited number of courts in a manner coherent with the structure of their respective legal system. For placement decisions, the delays with obtaining consent will be reduced by establishing an autonomous consent procedure and by a time limit (max. eight weeks as opposed to the current 6 months and more) for the requested Member State to respond to the request. As regards recognition and enforcement, delays relating to obtaining *exequatur* (taking up to several months) will be eliminated. As the safeguards (grounds for non-recognition and challenges against enforcement as such or against specific enforcement measures) would be invoked jointly by the defendant at the stage of enforcement, the overall duration of the proceedings would be shortened. Similarly, the preferred option would reduce delays (in some instances going beyond one year) during the actual enforcement by establishing a maximum time frame of six weeks. Finally, the clarification of the role of Central Authorities in general will reduce delays in their mutual cooperation.

- **Regulatory fitness and simplification**

Having recourse to the legal technique of recasting, improving the operational functioning of the instrument by making it clearer and more complete as well as simplification and improving efficiency will also contribute to regulatory fitness. In particular, establishing an autonomous consent procedure and a time limit for the requested Member State to respond to the request will shorten the time for obtaining consent in the placement procedures to max. 8 weeks instead of the current 6 months or more. With the proposed abolition of *exequatur*, delays (taking up to several months) and costs (up to € 4,000) relating to obtaining it would be eliminated. The proposed amended procedure for the return of the child in case of abduction would reduce the costs of specialised legal advice for parents (between € 1,000 and 4,000)[29].

[29] Impact Assessment, p. 61.

- **Fundamental rights**

All elements of the reform respect the rights set out in the Charter of Fundamental rights, in particular, the right to an effective remedy and the right to a fair trial guaranteed in its Article 47. Given the subject matter of the Regulation, notably the relationship between parents and their children, the preferred policy options for parental responsibility matters will enhance the right to the respect for private and family life (Article 7). Finally, the proposed changes will strengthen the rights of the child (Article 24) and bring the Regulation further in line with the United Nations Convention on the Rights of the Child by linking the provisions more closely to it.

4. BUDGETARY IMPLICATIONS

The proposal triggers relatively modest compliance costs. The abolition of *exequatur* and the concentration of jurisdiction would require Member States to incur costs for training to familiarise the legal profession with the new procedures envisaged. Training is however already necessary today. In addition, as the Regulation foresees a concentration of jurisdiction in the future, fewer judges will need to be trained. Experience in Member States which have concentrated jurisdiction, on the other hand, has shown that judges hearing more abduction cases are more likely to participate in any training that is offered, and the decisions by those specialised and experienced first instance courts are appealed less frequently, thereby generating cost savings in the individual case and for the administration of justice in general. Member States are also already now obliged to designate and ensure the proper functioning of their Central Authorities to enable them to carry out the obligations assigned to them under this Regulation. Further clarification of their tasks might generate additional costs (in particular for human resources) for some Member States if their Central Authorities currently are not sufficiently equipped..

The other changes envisaged constitute relatively straightforward changes to existing rules which would not require the creation of new procedures and should be able to be applied by the authorities without the need of special training.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In order to monitor the effective application of the amended Regulation, regular reporting and ex post evaluation by the Commission will take place supported by consultations of Member States, stakeholders and external experts. Regular expert meetings will be organised to discuss application problems and exchange best practices between Member States in the framework of the European Judicial Network in civil and commercial matters. The cooperation with the latter will be particularly useful to formulate the need for the collection of specific data to underpin any future proposal by statistical evidence.

- **Detailed explanation of the specific provisions of the proposal**

Introduction of measures increasing efficiency and improving the functioning of the "overriding mechanism"

Several substantial modifications are proposed with the aim of improving the efficiency of the return of an abducted child and the problems relating to the complexity of the "overriding mechanism" under the Regulation.

First of all, the proposal clarifies the time limit for issuing an enforceable return order in line with the view prevailing among those Member States which handle return cases under the 1980 Hague Convention most quickly. A separate six-week time limit would apply to the proceedings before the first instance court and the appellate court, respectively. In addition, the proposal would oblige Central Authorities to also work under a six-week time limit to receive and process the application; locate the respondent and the child; promote mediation while making sure that this does not delay the proceedings, and refer the applicant to a qualified lawyer or file the case with the court (depending on the national legal system). Currently, no time limit exists for Central Authorities. This new 6+6+6 deadline therefore envisages a maximum period of 18 weeks for all possible stages instead of average proceedings taking up to 165 days nowadays[30]. This would render the time limit for courts more realistic with a view to protecting the right of the defendant to a fair trial whilst limiting it to the shortest period realistically possible.

Moreover, the measures proposed include an obligation for Member States to concentrate jurisdiction for child abduction cases in a limited number of courts while respecting the structure of the legal system concerned. This would ensure that judges experienced with this very specific type of procedure would rule on the return applications.

The proposal limits the number of possibilities to appeal a decision on return to one and explicitly invites a judge to consider whether a decision ordering return should be provisionally enforceable.

In addition, the proposal contains a number of clarifications to better implement the current rules: it obliges the Member State where the child was habitually resident immediately before the wrongful removal or retention to conduct a thorough examination of the best interests of the child before a final custody decision, possibly implying return of the child, is given. In this context, when conducting this examination of the best interests of the child, any child who is capable of forming his or her own views has the right to be heard, even if not physically present, using alternative means such as videoconferencing as appropriate.

The cooperation between the Central Authorities or a direct communication by a judge with the relevant court in the Member State of origin should be facilitated to assess measures ("adequate arrangements") put in place in the Member State to which the child should be returned.

Where the child might be at a grave risk of harm or might otherwise be placed in an intolerable situation if returned to the country of the child's habitual residence without any safeguards, it should also be possible for the court of the Member State of refuge to order urgent protective measures required there and which, if necessary, can also "travel with the

[30] Statistical analysis of applications made in 2008 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction — Part II — Regional Report, Prel. Doc. No 8 B — update of November 2011 for the attention of the Special Commission of June 2011, p. 10-12, available at https://assets.hcch.net/upload/wop/abduct2011pd08be.pdf.

child" to the State of habitual residence where a final decision on the substance has to be taken. Such an urgent measure would be recognised by operation of law in the Member State where the child was habitually resident immediately before the wrongful removal or retention but would lapse as soon as the courts of that State have taken the measures required by the situation. For example, the court before which return proceedings are pending will be able to grant access rights to one of the parents which will also be enforceable in the Member State of habitual residence of the child until the court of that country takes a final decision with respect to the access to a child.

Creation of an autonomous consent procedure to be applied to all cross-border placements, flanked by a time limit of eight weeks for the requested Member State to respond to the request

The proposal concerning cross-border placements foresees the introduction of the following new rules:

- Making consent of the receiving State mandatory for all cross-border placements originating from a court or authority in a Member State
- Introducing uniform requirements for documents to be submitted with the request for consent: the requesting authority has to submit a report on the child and set out the reasons for the contemplated cross-border placement
- Introducing a rule on translation requirements: the request has to be accompanied by a translation into the language of the requested Member State
- Channelling all requests through Central Authorities
- Introducing a time limit of eight weeks for the requested State to decide about the request.

Abolition of exequatur with appropriate safeguards to be invoked at the stage of enforcement, i.e. to challenge the recognition or enforcement of the decision given by the State of origin or to challenge concrete enforcement measures ordered by the State where enforcement is sought, in one and the same procedure in the State where enforcement is sought

Today, judicial cooperation and the level of trust among Member States have reached a degree of maturity which permits the move towards a simpler and less costly system of circulation of decisions, removing the existing formalities among Member States. Such abolition of exequatur has already been realised in a number of areas, including in the family law area (access rights, certain return orders, maintenance obligations). As a substantial change, the proposal therefore abolishes the *exequatur* procedure for all decisions covered by the Regulation's scope. The abolition of *exequatur* will be accompanied by procedural safeguards which ensure that the defendant's right to an effective remedy and the right to a fair trial as guaranteed in Article 47 of the EU Charter on Fundamental Rights are adequately protected. The abolition of *exequatur* would allow the European citizens engaged in cross-border litigation to save the major part of the current costs of the procedure (on average € 2,200 to be paid for processing the application) and eliminate delays, which in some cases amount to a couple of months.

The defendant parent would have remedies at his/her disposal by which he or she could in exceptional circumstances prevent a decision given in one Member State from taking effect in

another Member State. Where there is a concern that any of the grounds of non-recognition or grounds to challenge concrete enforcement measures might apply, the defendant could make an application to challenge recognition and/or enforcement in the Member State of enforcement in one and the same procedure.

The proposal includes uniform rules to define in which situations not only cross-border enforceability but also enforcement as such could be opposed. The latter rules would govern for example the situation where a change of circumstances occurred. In addition, the rules settle in unified manner situations where the child opposes enforcement or enforcement cannot be carried out due to temporary factual obstacles.

As such, the time and costs of the *exequatur* procedure will be saved while the necessary protection of defendants will remain ensured.

As it is already the case under the current Regulation, the proposal also contains a series of standard certificates which aim at facilitating the recognition or enforcement of the foreign decision in the absence of the *exequatur* procedure. These certificates will facilitate the enforcement of the decision by the competent authorities and reduce the need for a translation of the decision.

Introduction of an obligation to give the child an opportunity to express his or her views

The proposal leaves Member States' rules and practices on how to hear a child untouched, but requires mutual recognition between the legal systems. This means that an obligation to give the child who is capable of forming his or her own views an opportunity to express these views would be made explicit in the Regulation, bearing in mind that all Member States have ratified the UN Convention on the Rights of the Child which already obliges them to hear the children meeting the condition mentioned above in any domestic and cross-border proceedings concerning them. Notably a distinction is made, as it is the case in the respective Article of the Charter of Fundamental Rights, between the question when the child needs to be given the opportunity to be heard on the one hand (i.e. when he or she is capable of forming/expressing his or her own views) and the question what weight the judge shall give to the child's views on the other hand (which depends on the age and maturity of the child). This distinction has to be recorded in the decision and in a certificate annexed to it. For a parent seeking recognition of a decision on another Member State, this means that a court in that country will not refuse to recognise it on the mere fact that a hearing of the child in another country was done differently comparing to the standards applied by that court.

Introduction of targeted measures to improve the efficiency of actual enforcement

To tackle the problem of inefficient enforcement, the proposal introduces several measures. It provides that the application for enforcement has to be made to a court in the Member State of enforcement but leaves the procedure generally, the means of enforcement and their modalities up to the law of the Member State of enforcement, e.g. which specific enforcement measure should be ordered under which circumstances. Where a decision from another Member State needs to be further detailed or adapted in order to be enforced under the national law of the Member State of enforcement, the competent court of that Member State should make the necessary specifications or adaptations while respecting the essential elements of the decision.

A party challenging the enforcement of a decision given in another Member State should, to the extent possible and in accordance with the legal system of the Member State addressed, be

able to invoke, in the same procedure, in addition to the grounds for refusal of recognition, the grounds for refusal against enforcement as such. The incompatibility with the child's best interests which has been caused by a change of circumstances (such as serious illness of a child) or by the strength of the objections of a child of sufficient age and maturity should only be considered if it reaches an importance comparable to the public policy exception.

The proposal also foresees an indicative time limit for the actual enforcement of a decision. In case the enforcement has not occurred after the lapse of 6 weeks from the moment the enforcement proceedings were initiated, the court of the Member State of enforcement would have to inform the requesting Central Authority in the Member State of origin (or the applicant, if the proceedings were conducted without Central Authority assistance) about this fact and the reasons for the lack of timely enforcement.

The proposal further provides that the court of origin could declare a decision provisionally enforceable even if this possibility does not exist in its national law. This is useful in systems where the decision is not yet enforceable while it is still subject to appeal. As a result, a parent would be able to have access to the child based on a decision provisionally declared enforceable while the appeal proceedings concerning that decision will be carried out on request of the other parent.

Clarification of the Central Authorities' and other requested authorities' tasks plus addition of an article on adequate resources

The proposal clarifies the following aspects: (1) who can ask (2) which assistance or information (3) from whom and (4) under which conditions. It makes clear that also courts and child welfare authorities can request the assistance of Central Authorities. Moreover, with respect to the transmission of social reports, the proposal clarifies to cover also reports on adults or siblings which are of relevance in child-related proceedings under the Regulation if the situation of the child so requires. It makes clear that this is (for courts) a cost-free alternative (except for possible translation costs) to the Evidence Regulation and creates a legal basis for child welfare authorities to obtain the necessary information from other Member States through the Central Authorities. The request is to be accompanied by a translation into the language of the requested State. Likewise, the proposal establishes some minimum requirements for a request for a social report, namely a description of the proceedings for which it is needed and the factual situation that gave rise to those proceedings. The proposal establishes a time limit for the requested authority to respond. As concerns the requested national authority, e.g. when a social report is asked for, the Regulation makes clear that the requested authority is under an autonomous obligation created by the Regulation to provide such report, without any additional requirements existing under the national law of the requested State having to be met. For example, a court in a Member State, before making its decision on taking a child into care who is currently present in its jurisdiction, may obtain information through Central Authority channels on whether there are pending proceedings in another country and ask for copies of any decisions ordering protective measures for other children from the same family, and for any social reports on the siblings and their relationship with each other, or on the parent, which are of relevance for the pending proceedings.

In addition, the proposal states that Member States shall ensure that Central Authorities have adequate financial and human resources to enable them to carry out the obligations assigned to them under this Regulation.

The proposal does not contain any changes with regard to the scope and the matrimonial matters for which the *status quo* is retained. This means that Chapter I (with the exception of mere clarification in definitions) and Chapter II Section 1 (except for clarification of the Articles 6 and 7) remain unchanged.

As a consequence, spouses in an international marriage will continue to have a possibility to consolidate the different proceedings as foreseen in the Regulation and other family law instruments (such as the Maintenance Regulation). At the same time, the flexibility for spouses to apply for a divorce in one of the fora indicated in the Regulation will be maintained. Spouses not having a common EU nationality who live in a third State but retain links with a certain Member State and want to get divorced will continue to rely on the national rules to access EU courts or to have their decision (obtained in a third country) recognised in the EU.

Furthermore, the following Articles remain unchanged in the meaning of a Recast: 1, 2, 3, 4, 5, 6, 7, 8(2), 9, 10, 11(1), (2), (3), (5), (7), 12(2), (4), 13,14, 15(1)-(5), 16, 17, 18, 19, 20(2), 21(1), (2), (4), 22, 23(a), (c)-(f), 24, 25, 26, 27, 41(2), 42(2), 44, 48, 49, 51, 53, 54, 55(b)-(e), 56 (2), (3), 58, 59(1), 60(a)-(d), 63, 66, 67 (a), (b).

↓ 2201/2003 (adapted)
⇨ new

2016/0190 (CNS)

Proposal for a

COUNCIL REGULATION

~~concerning~~ ⌦ on ⌫ jurisdiction, ~~and~~ the recognition and enforcement of ~~judgments~~ ⌦ decisions ⌫ in matrimonial matters and the matters of parental responsibility, ⌦ and on international child abduction ⌫ ~~repealing Regulation (EC) No 1347/2000~~(recast)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ~~establishing the European Community~~ ⌦ on the Functioning of the European Union ⌫ , and in particular ~~Article 61(c) and~~ Article ~~67(1)~~ ⌦ 81(3) ⌫ thereof,

Having regard to the proposal from the ⌦ European ⌫ Commission[31],

⇨ After transmission of the draft legislative act to the national parliaments, ⇦

Having regard to the opinion of the European Parliament[32],

Having regard to the opinion of the European Economic and Social Committee[33],

Acting in accordance with a special legislative procedure,

Whereas:

⇩ new

(1) Council Regulation (EC) No 2201/2003[34] has been substantially amended[35]. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

(2) This Regulation establishes uniform jurisdiction rules for divorce, separation and the annulment of marriage as well as rules for disputes about parental responsibility with

[31] OJ C […], […], p. […].
[32] OJ C […], […], p. […].
[33] OJ C […], […], p. […].
[34] Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).
[35] See Annex V.

an international element. It facilitates the free circulation of decisions in the Union by laying down provisions on their recognition and enforcement in other Member States.

↓ 2201/2003 recital 1 (adapted)
⇨ new

(3) ⇨ The smooth and correct functioning of a Union area of justice with respect for the Member States' different legal systems and traditions is vital for the Union. In that regard, mutual trust in one another's justice systems should be further enhanced. ⇦ The ~~European Community~~ ⌦ Union ⌫ has set ⌦ itself ⌫ the objective of creating ⌦ , maintaining and developing ⌫ an area of freedom, security and justice, in which the free movement of persons ⌦ and access to justice are ⌫ ~~is~~ ensured. ⇨ With a view to implementing those objectives, the rights of persons, notably children, in legal proceedings should be reinforced in order to facilitate the cooperation of judicial and administrative authorities and the enforcement of decisions in family law matters with cross-border implications. The mutual recognition of decisions in civil matters should be enhanced, access to justice should be simplified and exchanges of information between the authorities of the Member States should be improved upon. ⇦

(4) To this end, the ~~Community~~ ⌦ Union ⌫ is to adopt, among others, measures in the field of judicial cooperation in civil matters ⇨ having cross-border implications, particularly when ⇦ ~~that are~~ necessary for the proper functioning of the internal market.

⇩ new

(5) In order to attain the objective of free circulation of decisions in matrimonial matters and matters of parental responsibility, it is necessary and appropriate that the rules governing jurisdiction and the recognition and enforcement of decisions be governed by a legal instrument of the Union which is binding and directly applicable.

↓ 2201/2003 recital 2 (adapted)

~~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.~~

↓ 2201/2003 recital 3 (adapted)

~~Council Regulation (EC) No 1347/2000[36] 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. The content of this Regulation was substantially taken over from the Convention of 28 May 1998 on the same subject matter[37].~~

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36 ~~OJ L 160, 30.6.2000, p. 19.~~

37 ~~At the time of the adoption of Regulation (EC) No 1347/2000 the Council took note of the explanatory report concerning that Convention prepared by Professor Alegria Borras (OJ C 221, 16.7.1998, p. 27).~~

↓ 2201/2003 recital 4 (adapted)

~~On 3 July 2000 France presented an initiative for a Council Regulation on the mutual enforcement of judgments on rights of access to children[38].~~

↓ 2201/2003 recital 5 (adapted)
⇨ new

(6) In order to ensure equality for all children, this Regulation ⌦ should ⌫ cover~~s~~ all decisions on parental responsibility, including measures for the protection of ~~the child~~ ⌦ children ⌫ , independent~~ly~~ of any link with a matrimonial proceeding ⇨ or other proceedings ⇦ .

↓ 2201/2003 recital 6 (adapted)

(7) Since the application of the rules on parental responsibility often arises in the context of matrimonial proceedings, ⌦ however, ⌫ it is ~~more~~ appropriate to have a single instrument for matters of divorce and parental responsibility.

↓ 2201/2003 recital 7 (adapted)

~~The scope of this Regulation covers civil matters, whatever the nature of the court or tribunal.~~

↓ 2201/2003 recital 8 (adapted)

(8) As regards ~~judgments~~ ⌦ decisions ⌫ on divorce, legal separation or marriage annulment, this Regulation should apply only to the dissolution of matrimonial ties and should not deal with issues such as the grounds for divorce, property consequences of the marriage or any other ancillary measures.

↓ 2201/2003 recital 9 (adapted)

(9) As regards the property of the child, this Regulation should apply only to measures for the protection of the child, ~~i.e. (i)~~ ⌦ namely ⌫ the designation and functions of a person or body having charge of the child's property, representing or assisting the child, and ~~(ii)~~ the administration, conservation or disposal of the child's property. In this context, this Regulation should, for instance, apply in cases where the ~~parents are in dispute as regards the administration of~~ ⌦ object of the proceedings is the designation of a person or body administering ⌫ the child's property. Measures relating to the child's property which do not concern the protection of the child should continue to be governed by ~~Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments~~

38 ~~OJ C 234, 15.8.2000, p. 7.~~

~~in civil and commercial matters~~[39] Regulation (EU) No 1215/2012 of the European Parliament and of the Council[40].

↓ 2201/2003 recital 10 (adapted)

(10) This Regulation ~~is not intended to apply to matters relating to social security, public measures of a general nature in matters of education or health or to decisions on the right of asylum and on immigration. In addition it does~~ ⌦ should ⌫ not apply to the establishment of parenthood, since this is a different matter from the attribution of parental responsibility, nor to other questions linked to the status of persons. ~~Moreover, it does not apply to measures taken as a result of criminal offences committed by children.~~

↓ 2201/2003 recital 11 (adapted)

(11) Maintenance obligations are excluded from the scope of this Regulation as ~~these~~ ⌦ those obligations ⌫ are already covered by Council Regulation (EC) No ~~44/2001~~ 4/2009[41]. The ~~courts~~ ⌦ authorities ⌫ having jurisdiction under this Regulation will generally have jurisdiction to rule on ⌦ ancillary ⌫ maintenance obligations by application of point (d) of Article ~~5(2)~~ 3 of ⌦ that ⌫ ~~Council~~ Regulation ~~No 44/2001~~.

⇩ new

(12) This Regulation should apply to all children up to the age of 18 years like 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 ('the 1996 Hague Convention'). This should avoid an overlap with the scope of the Hague Convention of 13 January 2000 on the International Protection of Adults which applies from the age of 18 years onwards. The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ('the 1980 Hague Convention'), and consequently also Chapter III of this Regulation which governs the application of the 1980 Hague Convention in relations between Member States, should continue to apply to children up to the age of 16 years.

↓ 2201/2003 recital 12 (adapted)
⇨ new

(13) The grounds of jurisdiction in matters of parental responsibility ~~established in the present Regulation~~ are shaped in the light of the best interests of the child ⇨ and should be applied in accordance with them. Any reference to the best interests of the

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39 ~~OJ L 12, 16.1.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 1496/2002 (OJ L 225, 22.8.2002, p. 13).~~

40 Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

41 Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 007 10.1.2009, p. 1).

child should be interpreted in light of Article 24 of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child of 20 November 1989. ⇦

(14) ~~, in particular on~~ ⌦ To safeguard the best interests of the child, jurisdiction should in the first place be determined according to ⌫ the criterion of proximity. ~~This means that~~ ⌦ Consequently, ⌫ jurisdiction should lie ~~in the first place~~ with the Member State of the child's habitual residence, except for certain cases ~~of~~ ⌦ where there is ⌫ a change in the child's residence or pursuant to an agreement between the holders of parental responsibility.

⇩ new

(15) Where the child's habitual residence changes following a lawful relocation, jurisdiction should follow the child in order to maintain the proximity. This should apply where no proceedings are yet pending, and also in pending proceedings. In pending proceedings, however, parties may agree in the interests of the efficiency of justice that the courts of the Member State where proceedings are pending retain jurisdiction until a final decision has been given, provided that this is in the best interests of the child. This possibility is of particular importance where proceedings are nearing conclusion and one parent wishes to relocate to another Member State with the child.

(16) Under certain conditions and where it is in the best interests of the child, jurisdiction in matters of parental responsibility may also be established in a Member State where proceedings for divorce, legal separation or marriage annulment are pending between the parents, or in another Member State with which the child has a substantial connection and upon which the parties have agreed, even if the child is not habitually resident in that Member State. Such jurisdiction, which is an exception to the principle of proximity embodied in the jurisdiction of the Member State of habitual residence of the child for which *perpetuatio fori* does not exist, should cease at the latest as soon as a decision in those proceedings on parental responsibility matters has become final, in order to respect the requirement of proximity for any new proceedings in the future.

🡻 2201/2003 recital 16 (adapted)
⇨ new

(17) This Regulation should not prevent the ~~courts~~ ⌦ authorities ⌫ of a Member State ⌦ not having jurisdiction over the substance of the matter ⌫ from taking provisional, including protective measures, in urgent cases, with regard to ⌦ the ⌫ person~~s~~ or property ⇨ of a child ⇦ ~~situated~~ ⌦ present ⌫ in that ⌦ Member ⌫ State. ⇨ Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the measures it considers appropriate. Measures taken by a court in one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the

authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure. ⇦

↓ 2201/2003 recital 13 (adapted)
⇨ new

(18) ⇨ In exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. ⇦ In the ⌦ best ⌫ interests of the child, ~~this Regulation allows, by way of~~ ⌦ as an ⌫ exception and under certain conditions, ~~that~~ the ~~court~~ ⌦ authority ⌫ having jurisdiction may transfer ⌦ its jurisdiction in ⌫ a ⌦ specific ⌫ case to ~~a court~~ ⌦ an authority ⌫ of another Member State if this ~~court~~ ⌦ authority ⌫ is better placed to hear the case. However, in this case the second ~~court~~ ⌦ authority ⌫ should not be allowed to transfer ~~the case~~ ⌦ jurisdiction ⌫ to a third ⌦ authority ⌫ ~~court~~.

⇩ new

(19) Wherever reference is made to 'jurisdiction under this Regulation' in parental responsibility matters, this should include Articles 7 to 14, namely also the residual jurisdiction under national law as permitted by Article 13 of this Regulation and jurisdiction established by a transfer of jurisdiction.

↓ 2201/2003 recital 14 (adapted)

(20) This Regulation should ~~have effect~~ ⌦ be ⌫ without prejudice to the application of public international law concerning diplomatic ⌦ immunity ⌫ ~~immunities~~. Where jurisdiction under this Regulation cannot be exercised ~~by reason of the existence of~~ ⌦ due to ⌫ diplomatic immunity in accordance with international law, jurisdiction should be exercised in accordance with national law in a Member State in which the person concerned does not enjoy such immunity.

↓ 2201/2003 recital 15 (adapted)

(21) ~~Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters~~[42] ⌦ Regulation (EC) No 1393/2007 of the European Parliament and of the Council[43] ⌫ should apply to the service of documents in proceedings instituted pursuant to this Regulation.

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42 ~~OJ L 160, 30.6.2000, p. 37.~~

43 Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000 (OJ L 324, 10.12.2007, p. 79.

⇩ new

(22) If the outcome of proceedings before an authority of a Member State not having jurisdiction under this Regulation depends on the determination of an incidental question falling within the scope of this Regulation, that authority should not be prevented by this Regulation from determining that question. Therefore, if the object of the proceedings is, for instance, a succession dispute in which the child is involved and a guardian *ad litem* needs to be appointed to represent the child in those proceedings, the authority having jurisdiction for the succession dispute should be allowed to appoint the guardian for the proceedings pending before it, regardless of whether it has jurisdiction for parental responsibility matters under this Regulation. Any such determination of an incidental question should only produce effects in the proceedings in question.

🡻 2201/2003 recital 18

~~Where a court has decided not to return a child on the basis of Article 13 of the 1980 Hague Convention, it should inform the court having jurisdiction or central authority in the Member State where the child was habitually resident prior to the wrongful removal or retention. Unless the court in the latter Member State has been seised, this court or the central authority should notify the parties. This obligation should not prevent the central authority from also notifying the relevant public authorities in accordance with national law.~~

🡻 2201/2003 recital 19 (adapted)
⇨ new

(23) ⇨ Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. ⇦ The hearing of the child ⇨ in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child ⇦ plays an important role in the application of this Regulation~~.~~ ~~although~~ ~~t~~This ~~instrument~~ ⌦ Regulation ⌫ is ⌦ however ⌫ not intended to ~~modify national procedures applicable~~ ⇨ set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place ⇦ .

🡻 2201/2003 recital 20 (adapted)

(24) The hearing of a child in another Member State may take place ~~under~~ ⌦ pursuant to ⌫ the arrangements laid down in 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~~[44] ⌦ , where applicable ⌫ .

[44] 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 (OJ L 174, 27.6.2001, p. 1).

↓ 2201/2003 recital 17 (adapted)

(25) In cases of ⌦ the ⌫ wrongful removal or retention of a child, the return of the child should be obtained without delay, and to ~~this~~ ⌦ that ⌫ end the ⌦ 1980 ⌫ Hague Convention ~~of 25 October 1980 would~~ ⌦ should ⌫ continue to apply as complemented by the provisions of this Regulation, in particular ~~Article 11~~ Chapter III.

⇩ new

(26) In order to conclude the return proceedings under the 1980 Hague Convention as quickly as possible, Member States should concentrate jurisdiction for those proceedings upon one or more courts, taking into account their internal structures for the administration of justice as appropriate. The concentration of jurisdiction upon a limited number of courts within a Member State is an essential and effective tool for speeding up the handling of child abduction cases in several Member States because the judges hearing a larger number of these cases develop particular expertise. Depending on the structure of the legal system, jurisdiction for child abduction cases could be concentrated in one single court for the whole country or in a limited number of courts, using, for example, the number of appellate courts as point of departure and concentrating jurisdiction for international child abduction cases upon one court of first instance within each district of a court of appeal. Every instance should give its decision no later than six weeks after the application or appeal has been lodged with it. Member States should limit the number of appeals possible against a decision granting or refusing the return of a child under the 1980 Hague Child Abduction Convention to one.

(27) Where Central Authorities initiate or facilitate the institution of court proceedings for the return of children under the 1980 Hague Convention, they should ensure that the file prepared with a view to such proceedings is complete within six weeks, save where exceptional circumstances make this impossible. In order to enable the requested Central Authority to comply with that time limit, the requesting Central Authority should liaise closely with the applicant and respond to any requests for additional information or missing documents from the requested Central Authority without delay.

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

↓ 2201/2003 recital 17 (adapted)
⇨ new

(29) The courts of the Member State to or in which the child has been wrongfully removed or retained should be able to ~~oppose his or her~~ ⌦ refuse the ⌫ return in specific, duly justified cases, ⇨ as permitted by the 1980 Hague Convention. Before refusing to return the child, the court should, however, consider whether appropriate measures

of protection have been put in place or may be taken to eliminate any risks to the best interests of the child which could prevent the return pursuant to Article 13(1)(b) of the 1980 Hague Convention. To that end, the court should consult with the competent judicial and administrative authorities of the Member State of the child's habitual residence, with the assistance of the Central Authorities or the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC of 28 May 2001[45], and in appropriate cases, order any measures of protection necessary pursuant to Article 12 of this Regulation to ensure the safe return of the child. Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent court of such a Member State has taken the measures it considers appropriate. ⇦

(30) ⇨ Where the court of the Member State to or in which the child has been wrongfully removed or retained decides to refuse the child's return under the 1980 Hague Convention, in its decision it should refer explicitly to the relevant articles of the 1980 Hague Convention on which the refusal was based. ⇦ ~~However,~~ ~~s~~Such a decision ~~could~~ ⌦ may ⌫ be replaced ⌦ , however, ⌫ by a subsequent decision ⇨ , given in custody proceedings after a thorough examination of the child's best interests, ⇦ by the court of the Member State of habitual residence of the child prior to the wrongful removal or retention. Should that ~~judgment~~ ⌦ decision ⌫ entail the return of the child, the return should take place without any special procedure being required for ⌦ the ⌫ recognition and enforcement of that ~~judgment~~ ⌦ decision ⌫ in the Member State to or in which the child has been removed or retained.

↓ 2201/2003 recital 21

~~The recognition and enforcement of judgments given in a Member State should be based on the principle of mutual trust and the grounds for non-recognition should be kept to the minimum required.~~

↓ 2201/2003 recital 22

~~Authentic instruments and agreements between parties that are enforceable in one Member State should be treated as equivalent to 'judgments' for the purpose of the application of the rules on recognition and enforcement.~~

↓ 2201/2003 recital 23 (adapted)
⇨ new

(31) ~~The Tampere European Council considered in its conclusions (point 34)~~ ⇨ Mutual trust in the administration of justice in the Union justifies the principle ⇦ that ~~judgments in the field of family litigation~~ ⌦ decisions given in a Member State ⌫ should be ~~'automatically~~ recognised ~~throughout the Union~~ ⌦ in all Member States ⌫ without ⌦ the need for ⌫ any ~~intermediate proceedings~~ ⌦ recognition procedure ⌫ ~~or grounds for refusal of enforcement'~~. ~~This is why judgments on rights of access and judgments on return that have been certified~~ ⌦ In particular, when presented with a decision given in another Member State and pronouncing divorce,

[45] Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).

legal separation or the annulment of a marriage which can no longer be challenged ⌫ in the Member State of origin ~~in accordance with the provisions of this Regulation~~ ⌦ , the competent authorities of the requested Member State ⌫ should ~~be~~ recognise~~d~~ ⌦ the decision ⌫ ~~and enforceable in all other Member States~~ ⌦ by operation of law ⌫ without any ~~further~~ procedure being required⌦ and update their civil-status records accordingly ⌫ . ~~Arrangements for the enforcement of such judgments continue to be governed by national law.~~

⇩ new

(32) The recognition of a decision should be refused only if one or more of the grounds for refusal of recognition provided for in Articles 37 and 38 are present. The grounds mentioned in points (a) to (c) of Article 38(1), however, may not be invoked against decisions on rights of access and the decisions on return pursuant to the second subparagraph of Article 26(4) which have been certified in the Member State of origin in accordance with this Regulation, as this was already the case under Regulation (EC) No 2201/2003.

(33) In addition, the aim of making cross-border litigation concerning children less time consuming and costly justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility matters. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

(34) Authentic instruments and agreements between parties that are enforceable in one Member State should be treated as equivalent to 'decisions' for the purpose of the application of the rules on recognition and enforcement.

(35) It should be for the court of the Member State of enforcement to order specific enforcement measures, to make any necessary ancillary orders which may be required by national enforcement law and to instruct the competent enforcement authority to proceed to enforcement. Where a decision from another Member State needs to be specified by further details or adapted in order to be enforced under the national law of the Member State of enforcement, the competent court of that Member State should make the necessary specifications or adaptations while respecting the essential elements of the decision. In particular, where a decision granting access rights is not sufficiently specific or the necessary practical arrangements are lacking, such additions should be ordered by the court in the Member State of enforcement. Where a decision contains a measure or order which is not known in the law of the Member State addressed, that measure or order, including any right indicated therein, should, to the extent possible, be adapted to one which, under the law of that Member State, has equivalent effects attached to it and pursues similar aims.

(36) The direct enforcement in a Member State of a decision given in another Member State without a declaration of enforceability should not jeopardise the respect for the rights of the defence. Therefore, the person against whom enforcement is sought should be able to apply for refusal of the recognition or enforcement of a decision if he

or she considers one of the grounds for refusal of recognition or enforcement of this Regulation to be present.

(37) A party challenging the enforcement of a decision given in another Member State should, to the extent possible and in accordance with the legal system of the Member State of enforcement, be able to invoke, in the same procedure, in addition to the grounds for refusal of recognition or enforcement as set out in Articles 37 and 38 of this Regulation, the grounds for refusal of enforcement as such as set out in Article 40(2) of this Regulation. The incompatibility of the enforcement of a decision with the best interests of the child which has been caused by the strength of the objections of a child of sufficient age and maturity or by another change of circumstances which occurred after the decision was given, should only be considered if it reaches an importance comparable to the public policy exception. Grounds for refusal of enforcement available under national law may not be invoked. Where the refusal of enforcement is based on the objections of a child of sufficient age and maturity, the competent authorities in the Member State of enforcement should however take all appropriate steps to prepare the child for enforcement and obtain his or her cooperation before refusing enforcement.

(38) In order to inform the person against whom enforcement is sought of the enforcement of a decision given in another Member State, the certificate established under this Regulation should be served on that person in reasonable time before the first enforcement measure and if necessary, accompanied by the decision. In that context, the first enforcement measure should mean the first enforcement measure after such service.

↓ 2201/2003 recital 24 (adapted)
⇨ new

(39) The certificate issued to facilitate enforcement of the ~~judgment~~ ⌦ decision ⌫ should not be subject to appeal. It should be rectified only where there is a material error, ~~i.e.~~ ⌦ namely ⌫ where it does not correctly reflect the ⌦ decision ⌫ ~~judgment~~. ⇨ It should be withdrawn where it was clearly wrongly granted, having regard to the requirements laid down in this Regulation. ⇦

⇩ new

(40) Where provisional, including protective, measures are ordered by an authority having jurisdiction as to the substance of the matter, their free circulation should be ensured under this Regulation. The same applies to provisional, including protective, measures ordered in urgent cases on the basis of Article 12 of this Regulation by an authority of a Member State not having jurisdiction as to the substance of the matter. Those measures should apply until a competent authority of a Member State having jurisdiction over the substance of the matter under this Regulation has taken the measures it considers appropriate.

However, provisional, including protective, measures which were ordered without the respondent being summoned to appear should not be recognised and enforced under this Regulation.

↓ 2201/2003 recital 25 (adapted)

(41) ⌦ In matters of parental responsibility, ⌫ Central ~~a~~Authorities ⌦ should be designated in all Member States. They ⌫ should ⌦ support parents and competent authorities in cross-border proceedings and ⌫ cooperate both in general matters and in specific cases, including for purposes of promoting the amicable resolution of family disputes~~, in matters of parental responsibility~~. To ~~this~~ ⌦ that ⌫ end ~~e~~Central ~~a~~Authorities ~~shall~~ ⌦ should ⌫ 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~~[46].

⇩ new

(42) In specific cases in matters of parental responsibility which fall within the scope of this Regulation, Central Authorities should cooperate with each other in providing assistance to national authorities as well as to holders of parental responsibility. Such assistance should in particular include locating the child, either directly or through other competent authorities, where this is necessary for carrying out a request under this Regulation, and providing child-related information required for the purpose of proceedings.

(43) Regulation (EU) No 2016/679[47] applies to the processing of personal data by the Member States carried out in application of this Regulation.

(44) Without prejudice to any requirements under its national procedural law, a requesting authority should have the discretion to choose freely between the different channels available to it for obtaining the necessary information, for example, in case of courts by applying Council Regulation (EC) No 1206/2001, by using the European Judicial Network in civil and commercial matters, in particular the Central Authorities established under this Regulation, Network judges and contact points, or in case of judicial and administrative authorities by requesting information through a specialised non-governmental organisation in this field.

(45) Where a request with supporting reasons for a report on the situation of the child, on any ongoing procedures or on decisions taken concerning the child is made, the competent authorities of the requested Member State should carry out such a request without applying any further requirements which may exist under their national law. The request should contain in particular a description of the proceedings for which the information is needed and the factual situation that gave rise to those proceedings.

(46) An authority of a Member State contemplating a decision on parental responsibility should be entitled to request the communication of information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include

[46] Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).

[47] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (O.J. L 119, 4.5.2016, p. 1).

information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

(47) Where a person having *de facto* family ties as specified by the case law of the European Court of Human Rights with the child is residing in one Member State and wants to commence access proceedings in another Member State where the child is habitually resident, that person should be permitted to directly contact the competent authorities in the Member State where he or she is residing and obtain a finding on his or her suitability to exercise access and on the conditions under which access should be considered so that those findings can then be used in the proceedings in the Member State having jurisdiction under this Regulation. That same information should also be provided by the competent authorities of the Member State where the person seeking access is residing if such a request originates from the authorities of another Member State having jurisdiction under this Regulation.

(48) As time is of the essence in parental responsibility matters, the response to any request made under Articles 64 and 65 should be transmitted within two months.

(49) Where an authority of a Member State has already given a decision in matters of parental responsibility or is contemplating such a decision and the implementation is to take place in another Member State, the authority may request that the authorities of that other Member State assist in the implementation of the decision. This should apply, for instance, to decisions granting supervised access to be exercised in a Member State other than the Member State where the authority ordering access is located or involving any other accompanying measures of the competent authorities in the Member State where the decision is to be implemented.

(50) Where an authority of a Member State considers the placement of a child in a foster family or in an institution in another Member State, a consultation procedure through the Central Authorities of both Member States concerned should be carried out prior to the placement. The authority considering the placement should obtain the consent of the competent authority of the Member State in which the child should be placed before ordering the placement. As the placements are most often urgent measures required to remove a child from a situation which puts his or her best interests at risk, time is of the essence for such decisions. In order to speed up the consultation procedure, this Regulation therefore exhaustively establishes the requirements for the request and a time limit for the response from the Member State where the child should be placed. The conditions for granting or refusing consent, however, continue to be governed by the national law of the requested Member State.

(51) Any long-term placement of a child abroad should be in accordance with Article 24(3) of the Charter of Fundamental Rights of the EU (right to maintain personal contact with parents) and with the provisions of the United Nations Convention on the Rights of the Child, notably Articles 8, 9 and 20. In particular, when considering solutions, due regard should be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

↓ 2201/2003 recital 26 (adapted)

(52) The Commission should make publicly available and update the ~~lists of~~ ⌦ information on ⌫ courts and redress procedures communicated by the Member States.

↓ 2201/2003 recital 27

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[48].~~

⇩ new

(53) In order to ensure that the certificates to be used in connection with the recognition or enforcement of decisions, authentic instruments and agreements under this Regulation are kept up to date, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to Annexes I to III to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the Council receives all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

↓ 2201/2003 recital 28 (adapted)

~~This Regulation replaces Regulation (EC) No 1347/2000 which is consequently repealed.~~

↓ 2201/2003 recital 29 (adapted)

(54) For the proper functioning of this Regulation, the Commission should ~~review~~ ⌦ assess ⌫ its application and propose such amendments as may appear necessary.

↓ 2201/2003 recital 30 (adapted)
⇨ new

(55) ⇨ [In accordance with Articles 1 and 2 and Article 4a(1) of the Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the Protocol, the United Kingdom and Ireland are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.] ⇦ [~~The United Kingdom and Ireland,~~ ~~i~~In accordance with Article 3 ⌦ and Article 4a(1) ⌫ of the Protocol

[48] ~~OJ L 184, 17.7.1999, p. 23.~~

⌦ No 21 ⌫ on the position of the United Kingdom and Ireland ⌦ in respect of the area of freedom, security and justice, ⌫ annexed to the Treaty on European Union and the Treaty ⌦ on the Functioning of the European Union ⌫ ~~establishing the European Community~~, ⌦ the United Kingdom and Ireland ⌫ have ~~given notice of~~ ⌦ notified ⌫ their wish to take part in the adoption and application of this Regulation.]

↓ 2201/2003 recital 31 (adapted)

(56) Denmark, in accordance with Articles 1 and 2 of the Protocol ⌦ No 22 ⌫ on the position of Denmark, annexed to the Treaty on European Union and the Treaty ⌦ on the Functioning of the European Union ⌫ ~~establishing the European Community~~, is not ~~participating~~ ⌦ taking part ⌫ in the adoption of this Regulation and is ~~therefore~~ not bound by it ~~n~~or subject to its application.

↓ 2201/2003 recital 32 (adapted)
⇨ new

(57) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States ⇨ because of the differences between national rules governing jurisdiction and the recognition and enforcement of decisions ⇦ ~~and~~ ⌦ but ⌫ can ~~therefore~~ ⇨ rather, by reason of the direct applicability and binding nature of this Regulation, ⇦ be better achieved at ~~Community~~ ⌦ Union ⌫ level, the ~~Community~~ ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ⌦ on European Union ⌫ . In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

↓ 2201/2003 recital 33 (adapted)

~~This Regulation recognises the fundamental rights and observes the principles of the Charter of Fundamental Rights of the European Union. In particular, it seeks to ensure respect for the fundamental rights of the child as set out in Article 24 of the Charter of Fundamental Rights of the European Union,~~

↓ 2201/2003 (adapted)

HAS ADOPTED THE PRESENT REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Scope

1. This Regulation ~~shall apply~~ ⌦ applies ⌫ , whatever the nature of the ⌦ judicial or administrative authority ⌫ ~~court or tribunal~~, in civil matters relating to:

(a) divorce, legal separation or marriage annulment;

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

2. The matters referred to in paragraph 1(b) may, in particular, ~~deal with~~ ⌦ include ⌫ :

(a) rights of custody and rights of access;

(b) guardianship, curatorship and similar institutions;

(c) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child;

(d) the placement of the child in a foster family or in institutional care;

(e) measures for the protection of the child relating to the administration, conservation or disposal of the child's property.

3. This Regulation ~~shall~~ ⌦ does ⌫ not apply to:

(a) the establishment or ⌦ the ⌫ contesting of a parent-child relationship;

(b) decisions on adoption, measures preparatory to adoption, or the annulment or revocation of adoption;

(c) the name and forenames of the child;

(d) emancipation;

(e) maintenance obligations;

(f) trusts or succession;

(g) measures taken as a result of criminal offences committed by children.

Article 2

Definitions

For the purposes of this Regulation ⌦ the following definitions apply ⌫ :

1. ~~the term~~ ~~'court'~~ ⌦ 'authority' ⌫ ~~shall cover~~ ⌦ means ⌫ ~~all the authorities~~ ⌦ any judicial or administrative authority ⌫ in the Member States with jurisdiction in the matters falling within the scope of this Regulation ~~pursuant to Article 1~~;

2. ~~the term~~ 'judge' ~~shall mean the~~ ⌦ means a ⌫ judge or an official having powers equivalent to those of a judge in the matters falling within the scope of ~~the~~ ⌦ this ⌫ Regulation;

3. ~~the term~~ 'Member State' ~~shall mean~~ ⌦ means ⌫ all Member States with the exception of Denmark;

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

5. ~~the term~~ 'Member State of origin' ~~shall mean~~ ⌦ means ⌫ the Member State ~~where~~ ⌦ in which ⌫ the ~~judgment~~ ⌦ decision ⌫ to be enforced was ⌦ given ⌫ ~~issued~~;

6. ~~the term~~ 'Member State of enforcement' ~~shall mean~~ ⌦ means ⌫ the Member State ~~where~~ ⌦ in which ⌫ enforcement of the ~~judgment~~ ⌦ decision ⌫ is sought;

⇩ new

7. 'child' means any person below the age of 18 years;

🡻 2201/2003 (adapted)
⇨ new

~~7~~8. ~~the term~~ 'parental responsibility' ~~shall mean~~ ⌦ means ⌫ all rights and duties relating to the person or the property of a child which are given to a natural or legal person by ⌦ a decision ⌫ ~~judgment~~, by operation of law or by an agreement having legal effect~~.~~, ~~The term shall include~~ ⌦ including ⌫ rights of custody and rights of access;

~~8~~9. ~~the term~~ 'holder of parental responsibility' ~~shall mean~~ ⌦ means ⌫ any person ⌦ , institution or other body ⌫ having parental responsibility over a child;

~~9~~10. ~~the term~~ 'rights of custody' ~~shall include~~ ⌦ means ⌫ rights and duties relating to the care of the person of a child, ~~and~~ in particular the right to determine the child's place of residence ⌦ , including situations where, pursuant to a decision, by operation of law ⌫ ⌦ or by an agreement having legal effect under the law of the Member State where the child is habitually resident, ⌫ ⌦ one holder of parental responsibility cannot decide on the child's place of residence without the consent of another holder of parental responsibility ⌫ ;

~~10~~11. ~~the term~~ 'rights of access' ~~shall include in particular~~ ⌦ means rights of access to a child, including ⌫ the right to take a child to a place other than his or her habitual residence for a limited period of time;

~~11~~12. ~~the term~~ 'wrongful removal or retention' ~~shall mean~~ ⌦ means ⌫ a child's removal or retention where:

(a) it is in breach of rights of custody acquired by ~~judgment~~ ⌦ decision ⌫ 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. ~~Custody shall be considered to be exercised jointly when, pursuant to a judgment or by operation of law, one holder of parental responsibility cannot decide on the child's place of residence without the consent of another holder of parental responsibility.~~

CHAPTER II

JURISDICTION

SECTION 1

DIVORCE, LEGAL SEPARATION AND MARRIAGE ANNULMENT

Article 3

General jurisdiction

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

(a) in whose territory:

– the spouses are habitually resident, or

– the spouses were last habitually resident, insofar 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 or her '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 purposes of this Regulation, 'domicile' shall have the same meaning as it has under the legal systems of the United Kingdom and Ireland.

Article 4

Counterclaim

The ~~court in~~ ⌦ authority before ⌫ which proceedings are pending on the basis of Article 3 shall also have jurisdiction to examine a counterclaim, insofar as ~~the latter~~ ⌦ that counterclaim ⌫ comes within the scope of this Regulation.

Article 5

Conversion of legal separation into divorce

Without prejudice to Article 3, ~~a court~~ ⌦ an authority ⌫ of a Member State that has given a ~~judgment~~ ⌦ decision ⌫ on a legal separation shall also have jurisdiction ~~for~~ ⌦ to ⌫ convert~~ing~~ that ~~judgment~~ ⌦ decision ⌫ into a divorce, if the law of that Member State so provides.

Article ~~7~~ 6

Residual jurisdiction

1. Where no ~~court~~ ⌦ authority ⌫ of a Member State has jurisdiction pursuant to Articles 3, 4 and 5, jurisdiction shall be determined, in each Member State, by the laws of that ⌦ Member ⌫ State.

~~*Article 6*~~

~~**Exclusive nature of jurisdiction under Articles 3, 4 and 5**~~

⌦ 2. Paragraph 1 shall not apply to a respondent ⌫ ~~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 3, 4 and 5.~~

~~2~~3. As against a respondent who is not habitually resident ⌦ in a Member State ⌫ 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 ⌦ Member ⌫ State, avail himself of the rules of jurisdiction applicable in that ⌦ Member ⌫ State.

SECTION 2

PARENTAL RESPONSIBILITY

Article ~~8~~ 7

General jurisdiction

1. The ~~courts~~ ⌦ authorities ⌫ 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 seised~~. ⇨ Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the new habitual residence shall have jurisdiction. ⇦

2. Paragraph 1 shall be subject to the provisions of Articles ~~9~~ 8, ~~10~~ 9 and ~~12~~ 10.

Article ~~9~~ 8

Continuing jurisdiction ~~of the child's former habitual residence~~ ⌦ in relation to access rights ⌫

1. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the ~~courts~~ ⌦ authorities ⌫ of the Member State of the child's former habitual residence shall~~, by way of exception to Article 8,~~ retain jurisdiction ~~during a three-month period~~ ⌦ , for three months ⌫ following the move~~, for the purpose of modifying~~ ⌦ to modify ⌫ a ~~judgment~~ ⌦ decision ⌫ on access rights ~~issued~~ ⌦ given ⌫ in that Member State before the child moved~~, where~~ ⌦ if ⌫ the ~~holder of~~ ⌦ person granted ⌫ access rights ~~pursuant to~~ ⌦ by ⌫ the ⌦ decision ⌫ ~~judgment on access rights~~ continues to have his or her habitual residence in the Member State of the child's former habitual residence.

2. Paragraph 1 shall not apply if the holder of access rights referred to in paragraph 1 has accepted the jurisdiction of the ~~courts~~ ⌦ authorities ⌫ of the Member State of the child's new habitual residence by participating in proceedings before those ~~courts~~ ⌦ authorities ⌫ without contesting their jurisdiction.

Article ~~10~~ 9

Jurisdiction in cases of child abduction

In case of ⌦ the ⌫ wrongful removal or retention of the child, the ~~courts~~ ⌦ authorities ⌫ of the Member State where the child was habitually resident immediately before the wrongful removal or retention shall retain their jurisdiction until the child has acquired a habitual residence in another Member State and:

(a) each person, institution or other body having rights of custody has acquiesced in the removal or retention;

or

(b) the child has resided in that other Member State for a period of at least one year after the person, institution or other body having rights of custody has had or should have had knowledge of the whereabouts of the child and the child is settled in his or her new environment and at least one of the following conditions is met:

(i) within one year after the holder of rights of custody has had or should have had knowledge of the whereabouts of the child, no request for return has been lodged before the competent authorities of the Member State where the child has been removed or is being retained;

(ii) a request for return lodged by the holder of rights of custody has been withdrawn and no new request has been lodged within the time limit set in ~~paragraph~~ point (i);

⇩ new

(iii) a request for return lodged by the holder of rights of custody was refused on grounds other than Article 13 of the 1980 Hague Convention;

🡻 2201/2003 (adapted)
⇨ new

(~~iii~~ iv) a case before the court ~~in~~ ⌦ of ⌫ the Member State where the child was habitually resident immediately before the wrongful removal or retention has been closed pursuant to the second subparagraph of Article ~~11(7)~~ 26(3);

(~~iv~~ v) a ~~judgment~~ ⌦ decision ⌫ on custody that does not entail the return of the child has been ~~issued~~ ⌦ given ⌫ by the ~~courts~~ ⌦ authorities ⌫ of the Member State where the child was habitually resident immediately before the wrongful removal or retention.

Article ~~12~~ 10

~~Prorogation of jurisdiction~~ ⌦ Choice of court for ancillary and autonomous proceedings ⌫

1. The courts of a Member State exercising jurisdiction ~~by virtue of~~ ⌦ pursuant to ⌫ Article 3 on an application for divorce, legal separation or marriage annulment shall have jurisdiction in any matter relating to parental responsibility connected with that application where ⌦ the following conditions are met ⌫ :

(a) at least one of the spouses has parental responsibility in relation to the child; and

(b) the jurisdiction ~~of the courts~~ has been accepted expressly or otherwise in an unequivocal manner by the spouses and by the holders of parental responsibility, ⇨ at the latest ⇦ at the time the court is seised~~.~~ ⇨ or, where the law of that Member State so provides, during those proceedings; ⇦ and

⌦ (c) the jurisdiction ⌫ is in the ~~superior~~ ⌦ best ⌫ interests of the child.

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

(a) the ~~judgment allowing or refusing~~ ⌦ decision on ⌫ the application for divorce, legal separation or marriage annulment has become final; ⌦ or ⌫

(b) ⌦ a decision ⌫ in ~~those cases where~~ proceedings in relation to parental responsibility ⌦ has become final, in cases where those proceedings ⌫ are still pending on the date ⌦ when the decision ⌫ referred to in point (a)~~, a judgment in these proceedings~~ has become final; ⌦ or ⌫

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

3. The courts of a Member State shall ~~also~~ have jurisdiction in relation to parental responsibility ~~in proceedings other than those referred to in paragraph 1~~ where ⌦ the following conditions are met ⌫ :

(a) 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

(b) the jurisdiction ~~of the courts~~ has been accepted expressly or otherwise in an unequivocal manner by all the parties to the proceedings ⇨ at the latest ⇦ at the time the court is seised ⇨ or, where the law of that Member State so provides, during those proceedings; ⇦ and

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

⇩ new

4. The jurisdiction conferred in paragraph 3 shall cease as soon as the proceedings have led to a final decision.

5. Where all the parties to the proceedings in relation to parental responsibility accept the jurisdiction referred to in paragraph 1 or 3 during those proceedings, the agreement of the parties shall be recorded in court in accordance with the law of the Member State of the court.

🡻 2201/2003 (adapted)
⇨ new

~~4~~6. Where the child has his or her habitual residence in the territory of a third State which is not a contracting ~~p~~Party to the Hague Convention of 19 October 1996 on ~~j~~Jurisdiction, ~~a~~Applicable ~~l~~Law, ~~r~~Recognition, ~~e~~Enforcement and ~~c~~Cooperation in ~~r~~Respect of ~~p~~Parental ~~r~~Responsibility and ~~m~~Measures for the ~~p~~Protection of ~~c~~Children ⌦ ('the 1996 Hague Convention') ⌫ , jurisdiction under this Article shall be deemed to be in the child's interest, in particular if it is found impossible to hold proceedings in the third State in question.

Article ~~13~~ 11

Jurisdiction based on the child's presence

1. Where a child's habitual residence cannot be established and jurisdiction cannot be determined on the basis of Article ~~12~~ 10, the ~~courts~~ ⌦ authorities ⌫ 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 ~~20~~ 12

Provisional, including protective, measures

1. In urgent cases, ~~the provisions of this Regulation shall not prevent~~ the ~~courts~~ ⌦ authorities ⌫ of a Member State ⇨ where the child or property belonging to the child is present shall have jurisdiction to take ⇦ ~~from taking such~~ provisional, including protective, measures in respect of ~~persons~~ ⇨ that child ⇦ or ~~assets~~ ⇨ property ⇦ ~~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~~.

⇩ new

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60.

🡻 2201/2003 (adapted)
⇨ new

2. The measures ~~referred~~ ⌦ taken pursuant ⌫ to ~~in~~ paragraph 1 shall cease to apply ~~when~~ ⌦ as soon as ⌫ the ~~court~~ ⌦ authority ⌫ of the Member State having jurisdiction under this Regulation as to the substance of the matter has taken the measures it considers appropriate.

Article ~~14~~ 13

Residual jurisdiction

Where no ~~court~~ ⌦ authority ⌫ of a Member State has jurisdiction pursuant to Articles ~~8~~ 7 to ~~13~~ 11, jurisdiction shall be determined, in each Member State, by the laws of that ⌦ Member ⌫ State.

Article ~~15~~ 14

Transfer to a ~~court~~ ⌦ Member State ⌫ better placed to hear the case

1. By way of exception, the ~~courts~~ ⌦ authorities ⌫ of a Member State having jurisdiction as to the substance of the matter may, if they consider that ~~a court~~ ⌦ an authority ⌫ of another Member State, with which the child has a particular connection, would be better placed to hear the case, or a specific part thereof, and where this is in the best interests of the child:

(a) stay the ~~case~~ ⌦ proceedings ⌫ or the part thereof in question and invite the parties to introduce a request before the ~~court~~ ⌦ competent authority ⌫ of that other Member State in accordance with paragraph 4; or

(b) request a ~~court~~ ⌦ competent authority ⌫ of another Member State to assume jurisdiction in accordance with paragraph 5.

2. Paragraph 1 shall apply:

(a) upon application from a party; or

(b) of the ~~court's~~ ⌦ authority's ⌫ own motion; or

(c) upon application from ~~a court~~ ⌦ an authority ⌫ of another Member State with which the child has a particular connection, in accordance with paragraph 3.

A transfer made of the ~~court's~~ ⌦ authority's ⌫ own motion or by application of ~~a court~~ ⌦ an authority ⌫ of another Member State must be accepted by at least one of the parties.

3. The child shall be considered to have a particular connection ~~to~~ ⌦ with ⌫ a Member State as ~~mentioned~~ ⌦ referred to ⌫ in paragraph 1, if that Member State:

(a) has become the habitual residence of the child after the ~~court~~ ⌦ authority ⌫ referred to in paragraph 1 was seised; or

(b) is the former habitual residence of the child; or

(c) is the place of the child's nationality; or

(d) is the habitual residence of a holder of parental responsibility; or

(e) is the place where property of the child is located and the case concerns measures for the protection of the child relating to the administration, conservation or disposal of this property.

4. The ~~court~~ ⌦ authority ⌫ of the Member State having jurisdiction as to the substance of the matter shall set a time limit by which the ~~courts~~ ⌦ authorities ⌫ of that other Member State shall be seised in accordance with paragraph 1.

If the ~~courts~~ ⌦ authorities ⌫ are not seised ~~by~~ ⌦ within ⌫ that time ⌦ limit ⌫ , the ⌦ authority ⌫ ~~court~~ which has been seised shall continue to exercise jurisdiction in accordance with Articles ~~8~~ 7 to ~~14~~ 11 and Article 13.

5. The ~~courts~~ ⌦ authorities ⌫ of that other Member State may, where due to the specific circumstances of the case, this is in the best interests of the child, accept jurisdiction within six weeks ⌦ following receipt ⌫ of ~~their seisure~~ ⌦ the request ⌫ in accordance with points (a) or (b) of paragraph 1~~(a) or 1(b)~~. In this case, the ~~court~~ ⌦ authority ⌫ first seised shall decline jurisdiction. Otherwise, the ~~court~~ ⌦ authority ⌫ first seised shall continue to exercise jurisdiction in accordance with Articles ~~8~~ 7 to ~~14~~ 11 and Article 13.

6. The ~~courts~~ ⌦ authorities ⌫ shall cooperate for the purposes of this Article, either directly, ~~or~~ through the ~~c~~Central ~~a~~Authorities designated pursuant to Article ~~53~~ 60, ⇨ or through the European Judicial Network in civil and commercial matters ⇦ .

SECTION 3

COMMON PROVISIONS

Article ~~16~~ 15

Seising of a ~~C~~court

1. A court shall be deemed to be seised:

(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 ⌦ or she ⌫ 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 ⌦ or she ⌫ was required to take to have the document lodged with the court.

⇩ new

Article 16

Incidental questions

If the outcome of proceedings before an authority of a Member State depends on the determination of an incidental question falling within the scope of this Regulation, that authority may determine that question.

🡻 2201/2003 (adapted)

Article 17

Examination as to jurisdiction

Where ~~a court~~ ⌦ an authority ⌫ of a Member State is seised of a case over which it has no jurisdiction under this Regulation and over which ~~a court~~ ⌦ an authority ⌫ 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~~ ⌦ proceedings were instituted ⌫ 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 ⌦ or her ⌫ to arrange for his ⌦ or her ⌫ defence, or that all necessary steps have been taken to this end.

2. Article 19 of Regulation (EC) No ~~1348/2000~~ 1393/2007 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~~ 1393/2007 ~~are~~ ⌦ is ⌫ 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~~ ⌦ authorities ⌫ of different Member States, the ~~court~~ ⌦ authority ⌫ second seised shall of its own motion stay its proceedings until such time as the jurisdiction of the ~~court~~ ⌦ authority ⌫ first seised is established.

2. Where proceedings relating to parental responsibility relating to the same child and involving the same cause of action are brought before ~~courts~~ ⌦ authorities ⌫ of different Member States, the ~~court~~ ⌦ authority ⌫ second seised shall of its own motion stay its proceedings until such time as the jurisdiction of the ~~court~~ ⌦ authority ⌫ first seised is established.

3. Where the jurisdiction of the ~~court~~ ⌦ authority ⌫ first seised is established, the ~~court~~ ⌦ authority ⌫ second seised shall decline jurisdiction in favour of that ⌦ authority ⌫ ~~court~~.

In that case, the party who brought the relevant ~~action~~ ⌦ proceedings ⌫ before the ~~court~~ ⌦ authority ⌫ second seised may bring ~~that action~~ ⌦ those proceedings ⌫ before the ~~court~~ ⌦ authority ⌫ first seised.

⇩ new

Article 20

Right of the child to express his or her views

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of the Member States shall ensure that a child who is capable of forming his or her own views is given the genuine and effective opportunity to express those views freely during the proceedings.

The authority shall give due weight to the child's views in accordance with his or her age and maturity and document its considerations in the decision.

↓ 2201/2003 (adapted)

CHAPTER III

⊠ CHILD ABDUCTION ⊠

Article ~~11~~ 21

Return of the child ⊠ under the 1980 Hague Convention ⊠

~~1.~~ Where a person, institution or other body ~~having~~ ⊠ alleging a breach of ⊠ rights of custody applies to the ~~competent authorities~~ ⊠ court ⊠ in a Member State ~~to deliver a judgment~~ ⊠ for a decision ⊠ on the basis of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (~~hereinafter~~ 'the 1980 Hague Convention'), ~~in order to obtain~~ ⊠ ordering ⊠ the return of a child that has been wrongfully removed or retained in a Member State other than the Member State where the child was habitually resident immediately before the wrongful removal or retention, ~~paragraphs 2 to 8~~ Articles 22 to 26 shall apply.

⇩ new

Article 22

Concentration of local jurisdiction

Member States shall ensure that the jurisdiction for the applications for the return of a child referred to in Article 21 is concentrated on a limited number of courts. These courts shall be communicated by each Member State to the Commission pursuant to Article 81.

↓ 2201/2003 (adapted)
⇨ new

Article 23

⊠ Expeditious proceedings and mediation ⊠

~~3~~1. A court to which an application for ⊠ the ⊠ return of a child ⊠ referred to in Article 21 ⊠ is made ~~as mentioned in paragraph 1~~ shall act expeditiously in proceedings on the application, using the most expeditious procedures available ~~in~~ ⊠ under ⊠ national law.

Without prejudice to the first subparagraph, ~~the court~~ ⇨ each instance ⇦ shall~~, except where exceptional circumstances make this impossible, issue~~ ⊠ give ⊠ its ~~judgment~~ ⊠ decision ⊠ no later than six weeks after the application ⇨ or appeal ⇦ is lodged ⊠ with it, ⊠ ⊠ except where exceptional circumstances make this impossible ⊠ .

⇩ new

2. As early as possible during the proceedings, the court shall examine whether the parties are willing to engage in mediation to find, in the best interests of the child, an agreed solution, provided that this does not unduly delay the proceedings.

🡻 2201/2003 (adapted)

Article 24

⌦ Hearing of the child in return proceedings under the 1980 Hague Convention ⌫

~~2.~~ When applying Articles 12 and 13 of the 1980 Hague Convention, ~~it~~ ⌦ the court ⌫ shall ~~be~~ ensure~~d~~ that the child is given the opportunity to ⌦ express his or her views in accordance with Article 20 of this Regulation ⌫ ~~be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity~~.

Article 25

⌦ Procedure for the return of a child ⌫

~~4~~1. A court cannot refuse to return a child on the basis of point (b) of the first paragraph of Article 13~~b~~ of the 1980 Hague Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

⇩ new

To this end the court shall:

(a) cooperate with the competent authorities of the Member State where the child was habitually resident immediately before the wrongful removal or retention, either directly, with the assistance of Central Authorities or through the European Judicial Network in civil and commercial matters, and

(b) take provisional, including protective, measures in accordance with Article 12 of this Regulation, where appropriate.

🡻 2201/2003 (adapted)

~~5~~2. A court can~~not~~ refuse to return a child ~~unless~~ ⌦ only if ⌫ the person who requested the return of the child has been given an opportunity to be heard.

⇩ new

3. The court may declare the decision ordering the return of the child provisionally enforceable notwithstanding any appeal, even if national law does not provide for such provisional enforceability.

4. Only one appeal shall be possible against the decision ordering or refusing the return of the child.

5. Article 32(4) shall apply accordingly to the enforcement of the return decision given under the 1980 Hague Convention.

↓ 2201/2003 (adapted)

Article 26

⌦ Refusal to return the child under the 1980 Hague Convention ⌫

⇩ new

1. In a decision refusing to return the child, the court shall specify the article or articles of the 1980 Hague Convention upon which the refusal is based.

↓ 2201/2003 (adapted)
⇨ new

~~6~~2. ⌦ Where a decision refusing to ⌫ ~~If a court has issued an order on non-~~return ⌦ the child was based on at least one of the grounds referred to in ⌫ ~~pursuant to~~ Article 13 of the 1980 Hague Convention, the court ~~must~~ ⌦ shall ⌫ immediately either directly, ~~or~~ through its ~~c~~Central ~~a~~Authority ⇨ or the European Judicial Network in civil and commercial matters ⇦ , transmit a copy of ~~the court order on non-return~~ ⌦ that decision ⌫ and of the ⌦ other ⌫ relevant documents, in particular a transcript of the hearings before the court, to the court ~~with~~ ⌦ having ⌫ jurisdiction or ⌦ to the ⌫ ~~c~~Central ~~a~~Authority in the Member State where the child was habitually resident immediately before the wrongful removal or retention~~, as determined by national law~~.

⇨ The decision shall be accompanied by a translation in accordance with Article 69 into the official language, or one of the official languages, of that Member State or into any other language that the Member State expressly accepts. ⇦ ~~The court shall receive~~ ~~a~~All ~~the mentioned~~ ⌦ those ⌫ documents ⌦ shall be transmitted to the court having jurisdiction ⌫ within one month of the date of the ⌦ decision refusing to ⌫ ~~non-~~return ⌦ the child ⌫ ~~order~~.

~~7~~3. Unless the courts in the Member State where the child was habitually resident immediately before the wrongful removal or retention have already been seised by one of the parties, the court ~~or central authority~~ that receives the ~~information mentioned~~ ⌦ documents referred to ⌫ in paragraph ~~6~~ 2 ~~must~~ ⌦ shall ⌫ notify ~~it~~ ⌦ this information ⌫ to the parties and invite ~~them~~ ⌦ the parties ⌫ to make submissions to the court, in accordance with national law, within three months of the date of notification so that the court can examine the question of custody of the child.

Without prejudice to the ⌦ jurisdiction ⌫ rules ~~on jurisdiction contained in~~ ⌦ of ⌫ this Regulation, the court shall close the case if no submissions have been received by the court within the time limit.

~~8~~4. ~~Notwithstanding a judgment of non-return~~ ⇨ Where the court referred to in paragraph 3 receives submissions within the set time limit or where custody proceedings are already pending in that Member State, the court shall examine the question of custody of the child, taking into account the child's best interests as well as the reasons for and evidence underlying

the decision refusing to return the child ⇦ pursuant to Article 13 of the 1980 Hague Convention~~.~~.

~~a~~Any ~~subsequent judgment~~ ⌦ decision on the question of custody which is given in the proceedings referred to in the first subparagraph ⌫ which requires the return of the child ~~issued by a court having jurisdiction under this Regulation~~ shall be enforceable ⌦ in all other Member States ⌫ ~~in accordance with Section 4 of Chapter III below~~ in order to secure the return of the child ⌦ notwithstanding the earlier decision refusing to return the child pursuant to Article 13 of the 1980 Hague Convention ⌫ .

CHAPTER ~~III~~ IV

RECOGNITION AND ENFORCEMENT

SECTION 1

RECOGNITION

Article ~~21~~ 27

Recognition of a ~~judgment~~ ⌦ decision ⌫

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

2. In particular, and without prejudice to paragraph 3, no ~~special~~ procedure shall be required for updating the civil-status records of a Member State on the basis of a ~~judgment~~ ⌦ decision ⌫ 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 4 of this Chapter,~~ ~~a~~Any interested party may~~,~~ ~~in accordance with the procedures provided for in Section 2 of this Chapter,~~ apply for a decision that ⌦ there are no grounds for refusal of recognition referred to in Articles 37 and 38 ⌫ ~~the judgment be or not be recognised~~. ⇨ Subsection 2 of Section 3 of this Chapter shall apply accordingly. ⇦

~~The local jurisdiction of the court appearing in the list notified by each Member State to the Commission pursuant to Article 68 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~~ ⌦ decision ⌫ is raised as an incidental question ⌦ before an authority ⌫ ~~in a court~~ of a Member State, that ~~court~~ ⌦ authority ⌫ may determine that issue.

↓ 2201/2003 (adapted)

Article ~~37~~ 28

Documents ⌦ to be submitted for recognition ⌫

1. A party ~~seeking or contesting recognition or applying for a declaration of enforceability~~ ⌦ who wishes to invoke in a Member State a decision given in another Member State ⌫ shall ~~produce~~ ⌦ submit the following ⌫ :

(a) a copy of the ~~judgment~~ ⌦ decision ⌫ which satisfies the conditions necessary to establish its authenticity; and

(b) the ⌦ appropriate ⌫ certificate ~~referred to in~~ ⌦ issued pursuant to ⌫ Article 53~~39~~.

~~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.~~

⇩ new

2. The authority before which a decision given in another Member State is invoked may, where necessary, require the party invoking it to provide, in accordance with Article 69, a translation or a transliteration of the relevant content of the certificate referred to in point (b) of paragraph 1.

The authority may require the party to provide a translation of the decision instead of a translation of the relevant content of the certificate only if it is unable to proceed without such a translation.

↓ 2201/2003 (adapted)

Article ~~27~~ 29

Stay of proceedings

~~1.~~ ~~A court of a Member State in~~ ⌦ The authority before ⌫ which ~~recognition is sought of a judgment~~ ⌦ a decision ⌫ given in another Member State ⌦ is invoked ⌫ may stay the proceedings ⌦ , in whole or in part, in the following cases: ⌫

(a) ~~if an ordinary appeal against~~ the ~~judgment~~ ⌦ decision ⌫ ~~has been lodged.~~ ⌦ is challenged in the Member State of origin; ⌫

⇩ new

(b) an application has been submitted for a decision that there are no grounds for refusal of recognition referred to in Articles 37 and 38 or for a decision that the recognition is to be refused on the basis of one of those grounds; or

(c) in case of a decision on parental responsibility, proceedings to modify the decision or for a new decision on the same subject matter are pending in the Member State having jurisdiction over the substance of the matter under this Regulation.

🡻 2201/2003 (adapted)

~~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.~~

🡻 2201/2003 (adapted)
⇨ new

SECTION 2

~~APPLICATION FOR A DECLARATION OF ENFORCEABILITY~~ ⇨ ENFORCEMENT ⇦

Article ~~28~~ 30

Enforceable ~~judgments~~ ⌦ decisions ⌫

1. A ~~judgment~~ ⌦ decision ⌫ on ~~the exercise~~ ⌦ matters ⌫ 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~~ ⌦ enforceable ⌫ in ⌦ the ⌫ ~~an~~other Member ~~State~~ ⌦ States ⌫ ~~when, on the application of any interested party, it has been declared enforceable there~~ ⇨ without any declaration of enforceability being required ⇦ .

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

2. ~~Even if national law does not provide for enforceability by operation of law~~ ⌦ For the purposes of enforcement in another Member State ⌫ of a ~~judgment~~ ⌦ decision ⌫ granting ⌦ rights of ⌫ access ~~rights~~, the court of origin may declare ~~that~~ the ~~judgment shall be~~ ⌦ decision provisionally ⌫ enforceable~~.~~ notwithstanding any appeal ⌦ , even if national law does not provide for such provisional enforceability ⌫ .

Article ~~30~~ 31

Procedure

1. The procedure for ~~making~~ the ~~application~~ ⌦ enforcement of decisions given in another Member State ⌫ shall ⇨ , in so far as it is not covered by this Regulation, ⇦ be governed by the law of the Member State of enforcement. ⇨ Without prejudice to Article 40, a decision given in a Member State which is enforceable in the Member State of enforcement shall be enforced there under the same conditions as a decision given in the Member State of enforcement. ⇦

⇩ new

2. The party seeking the enforcement of a decision given in another Member State shall not be required to have a postal address in the Member State of enforcement.

That party shall be required to have an authorised representative in the Member State of enforcement only if such a representative is mandatory irrespective of the nationality or the domicile of the parties.

🡻 2201/2003

~~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 37 and 39 shall be attached to the application.~~

⇩ new

Article 32

Competent courts and enforcement procedure

1. The application for enforcement shall be submitted to the court competent for enforcement under the national law of the Member State of enforcement. These courts shall be communicated by each Member State to the Commission pursuant to Article 81.

2. The court shall take all steps necessary to ensure that the decision is enforced including the following:

(a) to order the concrete enforcement measures to be applied;

(b) to adapt the decision in accordance with Article 33 if necessary;

(c) to instruct the enforcement officer.

3. No grounds for refusal of recognition or enforcement may be examined at this stage unless an application under Article 39 or Article 41 for refusal of recognition or enforcement is filed.

4. Where the decision was not enforced within six weeks from the moment the enforcement proceedings were initiated, the court of the Member State of enforcement shall inform the

requesting Central Authority in the Member State of origin, or the applicant, if the proceedings were instituted without Central Authority assistance, about this fact and the reasons.

↓ 2201/2003 (adapted)

Article ~~48~~ 33

~~Practical arrangements for the exercise of rights of access~~ ⌦ Adaptation of decision ⌫

⇩ new

1. Where necessary, the courts of the Member State of enforcement may specify the necessary details for enforcement and make any adaptations required for enforcing the decision, provided that the essential elements of this decision are respected.

↓ 2201/2003 (adapted)

~~1.~~ ⌦ In particular, ⌫ ~~T~~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 or ~~have~~ not sufficiently been made in the ~~judgment delivered~~ ⌦ decision given ⌫ by the ~~courts~~ ⌦ authorities ⌫ 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~~ the second subparagraph shall cease to apply pursuant to a later ~~judgment~~ ⌦ decision ⌫ by the courts of the Member State having jurisdiction as to the substance of the matter.

⇩ new

2. Where a decision contains a measure or an order which is not known in the law of the Member State of enforcement, the courts of that Member State shall adapt that measure or order, to the extent possible, to a measure or an order known in the law of that Member State which has equivalent effects attached to it and which pursues similar aims and interests.

Such adaptation shall not result in effects going beyond those provided for in the law of the Member State of origin.

↓ 2201/2003 (adapted)
⇨ new

Article ~~45~~ 34

Documents ⌦ to be submitted with the application for enforcement ⌫

1. A party ~~seeking~~ ⌦ who applies for ⌫ enforcement ⌦ in a Member State ⌫ of a ~~judgment~~ ⌦ decision given in another Member State ⌫ shall ⌦ submit the following ⌫ ~~produce~~:

(a) a copy of the ~~judgment~~ ⌦ decision ⌫ which satisfies the conditions necessary to establish its authenticity; and

(b) the ⌦ appropriate ⌫ certificate ~~referred to in Article 41(1) or Article 42(1)~~ ⇨ issued pursuant to Article 53, certifying that the decision is enforceable and containing the relevant extract of the decision which specifies the obligation to be enforced ⇦ .

~~2. For the purposes of this Article,~~

~~– the certificate referred to in Article 41(1) shall be accompanied by a translation of point 12 relating to the arrangements for exercising right of access,~~

~~– the certificate referred to in Article 42(1) shall be accompanied by a translation of its point 14 relating to the arrangements for implementing the measures taken to ensure the child's return.~~

~~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.~~

⇩ new

2. The court may, where necessary, require the applicant to provide, in accordance with Article 69, a translation or a transliteration of the relevant content of the certificate which specifies the obligation to be enforced.

3. The court may require the applicant to provide a translation of the decision only if it is unable to proceed without such a translation.

Article 35

Service of certificate and decision

1. Where enforcement of a decision given in another Member State is sought, the certificate issued pursuant to Article 53 shall be served on the person against whom enforcement is sought prior to the first enforcement measure. The certificate shall be accompanied by the decision, if not already served on that person.

2. Where the person against whom enforcement is sought is habitually resident in a Member State other than the Member State of origin, he or she may request a translation of the decision in order to contest the enforcement if the decision is not written in or accompanied by a translation into either of the following languages:

(a) a language which he or she understands; or

(b) the official language of the Member State in which he or she is habitually resident or, where there are several official languages in that Member State, the official language or one of the official languages of the place where he or she is habitually resident.

Where a translation of the decision is requested under the first subparagraph, no measures of enforcement may be taken other than protective measures until that translation has been provided to the person against whom enforcement is sought.

This paragraph shall not apply if the decision has already been served on the person against whom enforcement is sought in one of the languages referred to in the first subparagraph.

3. This Article shall not apply to the enforcement of provisional, including protective measures.

↓ 2201/2003 (adapted)
⇨ new

Article 36

⌦ Stay of enforcement proceedings ⌫

⌦ 1. Without prejudice to Article 40, the court in the Member State of enforcement shall, upon application of the person against whom enforcement is sought, stay the enforcement proceedings ⌫ ⇨ where the enforceability of the decision is suspended in the Member State of origin. ⇦

⇩ new

2. Upon application of the person against whom enforcement is sought, the court in the Member State of enforcement may stay the enforcement proceedings where due to temporary circumstances such as serious illness of the child, enforcement would put the best interests of the child at grave risk. Enforcement shall be resumed as soon as the obstacle ceases to exist.

↓ 2201/2003 (adapted)

SECTION 3

⌦ *REFUSAL OF RECOGNITION AND ENFORCEMENT* ⌫

SUBSECTION 1

⌦ REFUSAL OF RECOGNITION ⌫

Article ~~22~~ 37

Grounds of non-recognition for ~~judgments relating to divorce, legal separation or marriage annulment~~ ⌦ decisions in matrimonial matters ⌫

~~A judgment~~ ⌦ On the application of any interested party, the recognition of a decision ⌫ relating to a divorce, legal separation or marriage annulment shall ~~not~~ be ⌦ refused ⌫ ~~recognised~~:

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought; ⌦ or ⌫

(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 defence unless it is determined that the respondent has accepted the ~~judgment~~ ⌦ decision ⌫ unequivocally; ⌦ or ⌫

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

Article ~~23~~ 38

Grounds of non-recognition for ~~judgments relating to~~ ⌦ decisions in matters of ⌫ parental responsibility

⌦ 1. On the application of any interested party, the recognition of a decision ⌫ ~~A judgment~~ relating to parental responsibility shall ~~not~~ be ⌦ refused ⌫ ~~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; ⌦ or ⌫

~~(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;~~

(~~e~~b) 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 defence unless it is determined that such person has accepted the ~~judgment~~ ⌦ decision ⌫ unequivocally; ⌦ or ⌫

(~~d~~c) on the request of any person claiming that the ~~judgment~~ ⌦ decision ⌫ infringes his or her parental responsibility, if it was given without such person having been given an opportunity to be heard; ⌦ or ⌫

(~~e~~d) if it is irreconcilable with a later ~~judgment~~ ⌦ decision ⌫ relating to parental responsibility given in the Member State in which recognition is sought; ⌦ or ⌫

(~~f~~e) if it is irreconcilable with a later ~~judgment~~ ⌦ decision ⌫ 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~~ ⌦ decision ⌫ fulfils the conditions necessary for its recognition in the Member State in which recognition is sought.

~~or~~

~~(g) if the procedure laid down in Article 56 has not been complied with.~~

⌦ 2. The grounds for refusal referred to in points (a) to (c) of paragraph 1 may not be invoked against a decision granting rights of access or entailing the return of the child pursuant to the second subparagraph of Article 26(4). ⌫

⇩ new

Article 39

Procedure for refusal of recognition

The procedures provided for in Articles 41 to 47 and, where appropriate, Sections 4 and 6 and Chapter VI shall apply accordingly to an application for refusal of recognition.

Subsection 2

Refusal of enforcement

Article 40

Grounds for refusal of enforcement of decisions in matters of parental responsibility

1. The enforcement of a decision shall be refused upon the application of the person against whom enforcement is sought where one of the grounds of non-recognition referred to in Article 38(1) is found to exist.

However, the grounds of non-recognition referred to in points (a) to (c) of Article 38(1) may not be invoked against a decision granting rights of access or entailing the return of the child pursuant to the second subparagraph of Article 26(4).

2. The enforcement of a decision may be refused upon the application of the person against whom enforcement is sought where, by virtue of a change of circumstances since the decision was given, the enforcement would be manifestly contrary to the public policy of the Member State of enforcement because one of the following grounds exists:

(a) the child being of sufficient age and maturity now objects to such an extent that the enforcement would be manifestly incompatible with the best interests of the child;

(b) other circumstances have changed to such an extent since the decision was given that its enforcement would now be manifestly incompatible with the best interests of the child.

3. In the cases referred to in point (a) of paragraph 2, before refusing enforcement the competent authorities in the Member State of enforcement shall take the necessary steps to obtain the child's cooperation and ensure enforcement in accordance with the best interests of the child.

4. Grounds for refusal of enforcement beyond those laid down in this Regulation may not be invoked.

↓ 2201/2003 (adapted)
⇨ new

Article ~~29~~ 41

Jurisdiction of local courts

1. ~~An~~ ⌦ The ⌫ application for ~~a declaration of enforceability~~ ⇨ refusal of enforcement ⇦ shall be submitted to the court ~~appearing in the list notified~~ ⌦ competent for enforcement under the national law of the Member State of enforcement as communicated ⌫ by each Member State to the Commission pursuant to Article ~~68~~ 81.

2. The local jurisdiction shall be determined by reference to the place of 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.

⇩ new

Article 42

Procedure for refusal of enforcement

1. The procedure for refusal of enforcement shall, in so far as it is not covered by this Regulation, be governed by the law of the Member State of enforcement.

2. The applicant shall provide the court with a copy of the decision and, where necessary, a translation of the decision in accordance with Article 69 or a transliteration of it.

The court may dispense with the production of the documents referred to in the first subparagraph if it already possesses them or if it considers it unreasonable to require the applicant to provide them.

Where the court considers it unreasonable to require the applicant to provide them, it may require the other party to provide those documents.

3. The party seeking the refusal of enforcement of a decision given in another Member State shall not be required to have a postal address in the Member State of enforcement.

That party shall be required to have an authorised representative in the Member State of enforcement only if such a representative is mandatory irrespective of the nationality or the domicile of the parties.

🡻 2201/2003 (adapted)
⇨ new

Article ~~31~~ 43

Decision of the court

~~1.~~ The court applied to shall give its decision ⇨ on the refusal of enforcement ⇦ without delay. ~~Neither the person against whom enforcement is sought, nor the child shall, 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 22, 23 and 24.~~

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

~~*Article 32*~~

~~**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 ~~33~~ 44

Appeal against the decision

1. The decision on the application for ~~a declaration of enforceability~~ ⇨ refusal of enforcement ⇦ may be appealed against by either party.

2. The appeal shall be lodged with the court ~~appearing in the list notified~~ ⌦ competent under the national law to hear the appeals against decisions referred to in Article 40 as communicated ⌫ by each Member State to the Commission pursuant to Article ~~68~~ 81.

~~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 ~~34~~ 45

~~Courts of~~ ⌦ Further ⌫ appeal and ~~means of contest~~ ⌦ competent courts ⌫

The ~~judgment~~ ⌦ decision ⌫ given on appeal may be contested only ⇨ before the courts and in ⇦ ~~by~~ the proceedings ~~referred to in the list notified~~ ⌦ communicated ⌫ by each Member State to the Commission pursuant to Article ~~68~~ 81.

Article ~~35~~ 46

Stay of proceedings

1. The court ⌦ to which an application for refusal of enforcement is submitted or ⌫ with which ~~the~~ ⌦ an ⌫ appeal is lodged under Article~~s~~ ~~33~~ 44 or ~~34~~ 45 may, on the application of the party against whom enforcement is sought, stay the proceedings ⌦ for one of the following reasons: ⌫

~~if~~ (a) an ordinary appeal has been lodged in the Member State of origin~~;~~,

~~or if~~ (b) the time ⌦ limit ⌫ for such appeal has not yet expired~~.~~;

⇩ new

(c) in case of a decision on parental responsibility, proceedings to modify the decision or for a new decision on the same subject matter are pending in the Member State having jurisdiction over the substance of the matter under this Regulation.

🡻 2201/2003 (adapted)
⇨ new

~~In the latter case,~~ ⌦ Where ⌫ the court ⌦ stays the proceedings for the reason referred to in point (b), it ⌫ may specify the time ⌦ limit ⌫ within which an appeal is to be lodged.

2. Where the ~~judgment~~ ⌦ decision ⌫ was given in Ireland ⇨ , Cyprus ⇦ 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 point (a) of paragraph 1.

🡻 2201/2003 (adapted)

Article ~~36~~ 47

Partial enforcement

~~1.~~ Where a ~~judgment~~ ⌦ decision ⌫ has been given in respect of several matters and enforcement ~~cannot be authorised~~ ⌦ is refused ⌫ for ~~all~~ ⌦ some ⌫ of them, ~~the court shall authorise~~ enforcement ⌦ shall nonetheless be possible ⌫ for ~~one or more of them~~ ⌦ the parts of the decision not affected by the refusal ⌫ .

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

SECTION ~~3~~ 4

⌦ COMMON ⌫ ~~P~~PROVISIONS ~~COMMON TO SECTIONS 1 AND 2~~

⇩ new

Article 48

Provisional, including protective, measures

The provisions of this Chapter applicable to decisions shall apply to provisional, including protective, measures ordered by an authority having jurisdiction under Chapter II.

They shall not apply to provisional, including protective, measures ordered by an authority without the respondent being summoned to appear.

Article 49

Return decisions given under the 1980 Hague Convention

The provisions of this Chapter relating to decisions on matters of parental responsibility, with the exception of Article 35 and Article 38(2), shall apply accordingly to decisions given in a Member State and ordering the return of a child to another Member State pursuant to the 1980 Hague Convention which have to be enforced in a Member State other than the Member State where they were given.

↓ 2201/2003 (adapted)
⇨ new

Article ~~24~~ 50

Prohibition of review of jurisdiction of the ~~court~~ ⌦ authority ⌫ of origin

The jurisdiction of the ~~court~~ ⌦ authority ⌫ of the Member State of origin may not be reviewed. The test of public policy referred to in point (a) of Article~~s~~ ~~22(a)~~ 37 and ~~23(a)~~ point (a) of Article 38 may not be applied to the rules relating to jurisdiction set out in Articles 3 to 14.

Article ~~25~~ 51

Differences in applicable law

The recognition of a ~~judgment~~ ⌦ decision ⌫ ⌦ in matrimonial matters ⌫ 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 ~~26~~ 52

Non-review as to substance

Under no circumstances may a ~~judgment~~ ⌦ decision given in another Member State ⌫ be reviewed as to its substance.

~~*Article 38*~~

~~**Absence of documents**~~

~~1. If the documents specified in Article 37(1)(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 ~~39~~ 53

Certificate concerning ~~judgments~~ ⌦ decisions ⌫ in matrimonial matters and certificate concerning ~~judgments on~~ ⌦ decisions in matters of ⌫ parental responsibility

1. The ~~competent court or~~ authority ~~of a Member State of origin~~ ⌦ that has given a decision in matrimonial matters ⌫ shall, at the request of any interested party, issue a certificate using the ~~standard~~ form set out in Annex I ~~(judgments in matrimonial matters) or in Annex II (judgments on parental responsibility)~~.

⌦ 2. The judge who has given a decision in matters of parental responsibility shall issue a certificate using the form set out in Annex II. Where such decision involves a cross-border situation at the time of the delivery of the decision, the judge shall issue the certificate *ex officio* when the decision becomes enforceable, even if only provisionally. If the situation acquires a cross-border character only subsequently, the certificate shall be issued at the request of one of the parties. ⌫

~~SECTION 4~~

~~ENFORCEABILITY OF CERTAIN JUDGMENTS CONCERNING RIGHTS OF ACCESS AND OF CERTAIN JUDGMENTS WHICH REQUIRE THE RETURN OF THE CHILD~~

~~*Article 40*~~

~~Scope~~

~~1. This Section shall apply to:~~

~~(a) rights of access;~~

~~and~~

~~(b) the return of a child entailed by a judgment given pursuant to Article 11(8).~~

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

~~*Article 41*~~

~~Rights of access~~

~~1. The rights of access referred to in Article 40(1)(a) granted in an enforceable judgment given in a Member State shall be recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition if the judgment has been certified in the Member State of origin in accordance with paragraph 2.~~

~~Even if national law does not provide for enforceability by operation of law of a judgment granting access rights, the court of origin may declare that the judgment shall be enforceable, notwithstanding any appeal.~~

⌦ 3. The certificate shall be completed in the language of the decision. ⌫⇨ Where appropriate, it shall also contain relevant information on the recoverable costs of the proceedings and the calculation of interest. ⇦

~~2~~4. The judge ⌦ or authority of the Member State ⌫ of origin shall issue the ~~certificate~~ ⌦ certificates ⌫ referred to in paragraph~~s~~ 1 and 2 ~~using the standard form in Annex III (certificate concerning rights of access)~~ only if:

⌦ (a) all parties concerned were given an opportunity to be heard; and ⌫

(~~a~~b) where the ~~judgment~~ ⌦ decision ⌫ was given in default~~,~~:

(i) the person defaulting was 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~~,~~; or~~,~~

(ii) ⌦ it is established that ⌫ the person ⌦ defaulting accepted the decision unequivocally, even if that person was ⌫ ~~has been~~ served with the document but not in compliance with the~~se~~ conditions~~, it is nevertheless established that he or she accepted the decision unequivocally;~~ ⌦ referred to in point (i). ⌫

~~(b) all parties concerned were given an opportunity to be heard;~~

~~and~~

~~(c)~~ ⌦ 5. Without prejudice to paragraph 4, the judge who has given a decision in matters of parental responsibility shall issue the certificate referred to in paragraph 2 only if also ⌫ the child was given a~~n~~ ⇨ genuine and effective ⇦ opportunity to ⌦ express his or her views in accordance with Article 20 ⌫ ~~be heard, unless a hearing was considered inappropriate having regard to his or her age or degree of maturity~~.

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

~~3. Where the rights of access involve a cross-border situation at the time of the delivery of the judgment, the certificate shall be issued ex officio when the judgment becomes enforceable, even if only provisionally. If the situation subsequently acquires a cross-border character, the certificate shall be issued at the request of one of the parties.~~

~~*Article 42*~~

~~**Return of the child**~~

~~1. The return of a child referred to in Article 40(1)(b) entailed by an enforceable judgment given in a Member State shall be recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition if the judgment has been certified in the Member State of origin in accordance with paragraph 2.~~

~~Even if national law does not provide for enforceability by operation of law, notwithstanding any appeal, of a judgment requiring the return of the child mentioned in Article 11(b)(8), the court of origin may declare the judgment enforceable.~~

~~2~~6. ⌦ Without prejudice to paragraphs 4 and 5, ⌫ ~~T~~the judge ~~of origin~~ who ~~delivered the judgment~~ ⌦ has given a decision on the question of custody ⌫ referred to in the second subparagraph of Article ~~40(1)(b)~~ 26(4) shall issue the certificate referred to in paragraph ~~1~~ 2 only if:

~~(a) 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;~~

~~(b) the parties were given an opportunity to be heard; and~~

~~(c) the court~~ ⌦ that judge ⌫ has taken into account in ~~issuing its judgment~~ ⌦ giving the decision ⌫ the reasons for and evidence underlying the ~~order issued~~ ⌦ prior decision given in another Member State ⌫ pursuant to Article 13 of the 1980 Hague Convention.

~~In the event that~~ ⌦ Where ⌫ the court or any other authority takes measures to ensure the protection of the child after ~~its~~ ⌦ his or her ⌫ return to the ⌦ Member ⌫ State of habitual residence, the certificate shall contain details of such measures.

~~The judge of origin shall of his or her own motion issue that certificate using the standard form in Annex IV (certificate concerning return of the child(ren)).~~

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

~~*Article 44*~~

~~**Effects of the certificate**~~

7. The certificate shall take effect only within the limits of the enforceability of the ⌦ decision ⌫ ~~judgment~~.

Article ~~43~~ 54

Rectification ⌦ and withdrawal ⌫ of the certificate

⇩ new

1. The authority of origin shall, upon application, rectify the certificate where, due to a material error, there is a discrepancy between the decision and the certificate.

2. The authority of origin shall, upon application, withdraw the certificate where it was clearly wrongly granted, having regard to the requirements laid down in this Regulation.

↓ 2201/2003 (adapted)
⇨ new

~~1~~3. The law of the Member State of origin shall ~~be applicable~~ ⌦ apply ⌫ to ~~any~~ ⌦ the procedure for ⌫ rectification ⇨ and withdrawal ⇦ of the certificate.

~~2~~4. No appeal shall lie against the issuing of a certificate ~~pursuant to Articles 41(1) or 42(1)~~.

SECTION 5

AUTHENTIC INSTRUMENTS AND AGREEMENTS

Article ~~46~~ 55

⌦ ***Authentic instruments and agreements*** ⌫

Documents which have been formally drawn up or registered as authentic instruments and are enforceable in one Member State and also agreements between the parties that are enforceable in the Member State in which they were concluded shall be recognised and ~~declared enforceable~~ ⇨ enforced ⇦ under the same conditions as ~~judgments~~ ⌦ decisions ⌫ .

⇩ new

Article 56

Certificate

1. The competent authority of the Member State of origin shall, at the request of any interested party, issue the certificate using the form set out in Annex III.

The certificate shall contain a summary of the enforceable obligation recorded in the authentic instrument or contained in the agreement between the parties.

2. The certificate shall be completed in the language of the authentic instrument or agreement.

3. Article 54 shall apply accordingly to the rectification and withdrawal of the certificate.

↓ 2201/2003 (adapted)
⇨ new

SECTION 6

OTHER PROVISIONS

~~*Article 47*~~

~~**Enforcement procedure**~~

~~1. The enforcement procedure is governed by the law of the Member State of enforcement.~~

~~2. Any judgment delivered by a court of another Member State and declared to be enforceable in accordance with Section 2 or certified in accordance with Article 41(1) or Article 42(1) shall be enforced in the Member State of enforcement in the same conditions as if it had been delivered in that Member State.~~

~~In particular, a judgment which has been certified according to Article 41(1) or Article 42(1) cannot be enforced if it is irreconcilable with a subsequent enforceable judgment.~~

Article ~~49~~ 57

Costs

~~The provisions of~~ ~~t~~This Chapter~~,~~ ~~with the exception of Section 4,~~ 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.

Article ~~50~~ 58

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 Article~~s~~ ~~21~~ 27(3), ~~28, 41, 42 and 48~~ ⇨ Articles 32, 39 and 42 ⇦ 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 ~~51~~ 59

Security, bond or deposit

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

~~(a)~~ ⌦ that he or she is a foreign national or ⌫ that he or she is not ⌦ domiciled or ⌫ 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.~~

CHAPTER ~~IV~~ V

COOPERATION BETWEEN CENTRAL AUTHORITIES IN MATTERS OF PARENTAL RESPONSIBILITY

Article ~~53~~ 60

Designation

Each Member State shall designate one or more ~~e~~Central ~~a~~Authorities to assist with the application of this Regulation ⌦ in matters of parental responsibility ⌫ and shall specify the geographical or functional jurisdiction of each. Where a Member State has designated more than one ~~e~~Central ~~a~~Authority, communications shall normally be sent direct to the relevant ~~e~~Central ~~a~~Authority with jurisdiction. Where a communication is sent to a ~~e~~Central ~~a~~Authority without jurisdiction, the latter shall be responsible for forwarding it to the ~~e~~Central ~~a~~Authority with jurisdiction and informing the sender accordingly.

⇩ new

Article 61

Resources

Member States shall ensure that Central Authorities have adequate financial and human resources to enable them to carry out the obligations assigned to them under this Regulation.

🡻 2201/2003 (adapted)

Article ~~54~~ 62

General ~~functions~~ ⌦ tasks of the Central Authorities ⌫

The ~~e~~Central ~~a~~Authorities shall communicate information on national laws and procedures and take ⌦ the appropriate ⌫ measures ~~to improve~~ ⌦ for improving ⌫ the application of this Regulation and strengthening their cooperation. For this purpose the European Judicial Network in civil and commercial matters ~~created by Decision No 2001/470/EC~~ shall be used.

Article ~~55~~ 63

Cooperation ~~on~~ ⌦ in specific ⌫ cases ~~specific~~ ⌦ relating ⌫ to parental responsibility

1. The ~~e~~Central ~~a~~Authorities shall, upon request from a ~~e~~Central ~~a~~Authority of another Member State or from ~~a holder of parental responsibility~~ an authority, cooperate ~~on~~ ⌦ in ⌫ specific cases to achieve the purposes of this Regulation. To this end, they shall, acting directly or through ~~public~~ authorities or other bodies, take all appropriate steps ~~in accordance with the law of that Member State in matters of personal data protection~~ to:

⇩ new

(a) provide, on the request of the Central Authority of another Member State, assistance in discovering the whereabouts of a child where it appears that the child may be present within the territory of the requested Member State and the determination of the whereabouts of the child is necessary for carrying out a request under this Regulation;

🡻 2201/2003 (adapted)
⇨ new

(~~a~~b) collect and exchange information ⇨ under Article 64; ⇦ ~~:~~

~~(i) on the situation of the child;~~

~~(ii) on any procedures under way; or~~

~~(iii) on decisions taken concerning the child;~~

(~~b~~c) provide information and assistance to holders of parental responsibility seeking the recognition and enforcement of decisions ~~on~~ ⌦ in ⌫ their territory, in particular concerning rights of access and the return of the child;

(~~c~~d) facilitate communications between ~~courts~~ ⌦ authorities ⌫ , in particular for the application of ~~Article 11(6) and (7) and~~ Article ~~15~~ 14, ⇨ Article 25(1)(a), ⇦ Article 26(2) and the second subparagraph of Article 26(4);

(~~d~~e) provide such information and assistance as is needed by ~~courts~~ ⌦ authorities ⌫ to apply Article ~~56~~ 65; ~~and~~

(~~e~~f) facilitate agreement between holders of parental responsibility through mediation or other means, and facilitate cross-border cooperation to this end~~;~~ ⌦ and ⌫

⇩ new

(g) ensure that where they initiate or facilitate the institution of court proceedings for the return of children under the 1980 Hague Convention, the file prepared in view of such proceedings, save where exceptional circumstances make this impossible, is complete within six weeks.

2. Requests pursuant to points (c) and (f) of paragraph 1 may also be made by holders of parental responsibility.

3. The Central Authorities shall, within their Member State, transmit the information referred to in Articles 63 and 64 to the competent authorities, including the authorities competent for service of documents and for enforcement of a decision, as the case may be.

Any authority to which information has been transmitted pursuant to Articles 63 and 64 may use it for the purposes of this Regulation.

4. Notification of the data subject of the transmission of all or part of the information collected shall take place in accordance with the national law of the requested Member State.

Where there is a risk that it may prejudice the effective carrying out of the request under this Regulation for which the information was transmitted, such notification may be deferred until the request has been carried out.

Article 64

Cooperation on collecting and exchanging information

1. Upon a request made with supporting reasons by the Central Authority or an authority of a Member State with which the child has a substantial connection, the Central Authority of the Member State where the child is habitually resident and present may, directly or through authorities or other bodies:

(a) provide a report:

  (i) on the situation of the child;

  (ii) on any procedures under way concerning the child; or

  (iii) on decisions taken concerning the child;

(b) request the competent authority of its Member State to consider the need to take measures for the protection of the person or property of the child.

2. Where a decision in matters of parental responsibility is contemplated, an authority of a Member State, if the situation of the child so requires, may request any authority of another Member State which has information relevant to the protection of the child to communicate such information.

3. An authority of a Member State may request the authorities of another Member State to assist in the implementation of decisions in matters of parental responsibility given under this Regulation, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contact on a regular basis.

4. The requests referred to in paragraphs 1 to 3 and the accompanying documents shall be accompanied by a translation into the official language or one of the official languages of the requested Member State or any other language that the requested Member State expressly accepts. Member States shall communicate such acceptance to the Commission in accordance with Article 81.

5. The authorities of a Member State where the child is not habitually resident shall, upon request of a person residing in that Member State who is seeking to obtain or to maintain access to the child, or upon request of a Central Authority of another Member State, gather information or evidence, and may make a finding, on the suitability of that person to exercise access and on the conditions under which access should be exercised.

6. Except where exceptional circumstances make this impossible, the requested information shall be transmitted to the Central Authority or competent authority of the requesting Member State no later than two months following the receipt of the request.

↓ 2201/2003 (adapted)
⇨ new

Article ~~56~~ 65

Placement of a child in another Member State

1. Where ~~a court~~ ⌦ an authority ⌫ having jurisdiction under ~~Articles 8 to 15~~ ⌦ this Regulation ⌫ contemplates the placement of a child in institutional care or with a foster family ~~and where such placement is to take place~~ in another Member State, it shall first ~~consult the central authority or other~~ ⇨ obtain the consent of the competent ⇦ authority ~~having jurisdiction~~ in ~~the latter~~ ⌦ that other Member ⌫ State ~~where public authority intervention in that Member State is required for domestic cases of child placement~~. ⇨ To that effect it shall, through the Central Authority of its own Member State, transmit to the Central Authority of the Member State where the child is to be placed a request for consent which includes a report on the child together with the reasons for the proposed placement or provision of care. ⇦

⇩ new

2. The request and the accompanying documents referred to in paragraph 1 shall be accompanied by a translation into the official language or one of the official languages of the requested Member State or any other language that the requested Member State expressly accepts. Member States shall communicate such acceptance to the Commission in accordance with Article 81.

↓ 2201/2003 (adapted)

~~2~~3. The ~~judgment~~ ⌦ decision ⌫ on placement referred to in paragraph 1 may be ~~made~~ ⌦ given ⌫ in the requesting ⌦ Member ⌫ State only if the competent authority of the requested ⌦ Member ⌫ State has consented to the placement.

⇩ new

4. Except where exceptional circumstances make this impossible, the requested Central Authority shall transmit the decision granting or refusing consent to the requesting Central Authority no later than two months following the receipt of the request.

↓ 2201/2003 (adapted)
⇨ new

~~3~~5. The procedure~~s~~ for ~~consultation or~~ ⌦ obtaining ⌫ consent ~~referred to in paragraphs 1 and 2~~ shall be governed by the national law of the requested ⌦ Member ⌫ State.

~~4. Where the authority having jurisdiction under Articles 8 to 15 decides to place the child in a foster family, and where such placement is to take place in another Member State and where no public authority intervention is required in the latter Member State for domestic cases of child placement, it shall so inform the central authority or other authority having jurisdiction in the latter State.~~

Article ~~57~~ 66

Working method

1. ~~Any holder of parental responsibility may submit,~~ ⇨ Requests for assistance may be submitted ⇦ to the ~~c~~Central ~~a~~Authority of the Member State of ~~his or her~~ ⌦ the applicant's ⌫ habitual residence or to the ~~c~~Central ~~a~~Authority of the Member State where the child is habitually resident or present~~, a request for assistance as mentioned in Article 55~~. In general, the request shall include all available information of relevance to its ~~enforcement~~ ⌦ execution ⌫ . Where the request for assistance concerns the recognition or enforcement of a ~~judgment~~ ⌦ decision ⌫ ⇨ or authentic instrument ⇦ on parental responsibility that falls within the scope of this Regulation, the ~~holder of parental responsibility~~ ⇨ applicant ⇦ shall attach the relevant certificates provided for in Articles ~~39, 41(1) or 42(1)~~ 53 ⇨ or 56 ⇦ .

2. Member States shall communicate to the Commission the official language or languages of the ~~Community~~ ⌦ Union ⌫ institutions other than their own in which communications to the ~~c~~Central ~~a~~Authorities can be accepted.

3. The assistance provided by the ~~c~~Central ~~a~~Authorities pursuant to ~~Article 55~~ ⌦ this Regulation ⌫ shall be free of charge.

4. Each ~~c~~Central ~~a~~Authority shall bear its own costs.

Article ~~58~~ 67

Meetings

1. In order to facilitate the application of this Regulation, ~~c~~Central ~~a~~Authorities shall meet regularly.

2. The~~se~~ meetings ⌦ of Central Authorities ⌫ shall be convened ⌦ within the framework of the European Judicial Network in civil and commercial matters ⌫ in compliance with Decision No 2001/470/EC ~~establishing a European Judicial Network in civil and commercial matters~~.

CHAPTER VI

⌦ GENERAL PROVISIONS ⌫

Article ~~52~~ 68

Legalisation or other similar formality

No legalisation or other similar formality shall be required in respect of the documents referred to in Articles ~~37, 38 and 45~~ ⇨ 26, ⇦ 28, 34, ⇨ 42, 64 and 65 ⇦ or in respect of a document appointing a representative ~~ad litem~~ ⌦ for the proceedings ⌫ .

⇩ new

Article 69

Translations

1. Without prejudice to point (a) of Article 35(2), where a translation or a transliteration is required under this Regulation, such translation or transliteration shall be into the official language of the Member State concerned or, where there are several official languages in that Member State, into the official language or one of the official languages of court proceedings of the place where a decision given in another Member State is invoked or an application is made, in accordance with the law of that Member State.

2. The translations or transliterations of the relevant content of the certificates referred to in Articles 53 and 56 may be into any other official language or languages of the institutions of the Union that the Member State concerned has communicated in accordance with Article 81 it can accept.

3. The courts of the Member State of enforcement may request a translation of the following relevant content:

(a) in a certificate accompanying a decision granting access rights, point 13.2. relating to the arrangements for exercising rights of access;

(b) in a certificate accompanying a decision pursuant to the second subparagraph of Article 26(4) which entails the return of the child, point 15 relating to the measures taken to ensure the protection of the child after his or her return to the Member State of habitual residence;

(c) in a certificate accompanying any other decision in matters of parental responsibility, point 17 which specifies the obligation to be enforced.

4. Any translation required for the purposes of Chapter IV of this Regulation shall be done by a person qualified to do translations in one of the Member States.

↓ 2201/2003 (adapted)
⇨ new

CHAPTER VII

⇨ DELEGATED ACTS ⇦

Article ~~69~~ 70

Amendments to the Annexes

⇨ The Commission is empowered to adopt delegated acts in accordance with Article 71 concerning the ⇦ ~~Any~~ amendment~~s~~ ⌦ of ⌫ ~~to the standard forms in~~ Annexes I, II ~~to IV~~ ⇨ and III ⇦ ~~shall be adopted in accordance with the consultative procedure set out in Article 70(2)~~.

Article ~~70~~ 71

~~Committee~~ ⌦ Exercise of the delegation ⌫

~~1. The Commission shall be assisted by a committee (committee).~~

~~2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.~~

~~3. The committee shall adopt its rules of procedure.~~

⇩ new

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 70 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Regulation].

3. The delegation of power referred to in Article 70 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it to the Council.

6. A delegated act adopted pursuant to Article 70 shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

7. The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

↓ 2201/2003 (adapted)
⇨ new

CHAPTER VIII

RELATIONS WITH OTHER INSTRUMENTS

Article ~~59~~ 72

Relation with other instruments

1. Subject to the provisions of Articles ~~60, 63,~~ ~~64 and paragraph 2 of this Article~~73, 74, ⇨ 75, 76, ⇦ 77 and 78, this Regulation shall, for the Member States, supersede conventions existing at the time of entry into force of ~~this~~ Regulation ⌦ (EC) No 2201/2003 ⌫ 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 Union*. 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 Chapter II of this Regulation, shall be~~

~~recognised and enforced in the other Member States under the rules laid down in Chapter III 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(a) and (c);~~

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

Article ~~60~~ 73

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~~;~~.

~~and~~

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

⇩ new

Article 74

Relation with the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

Where a child has been wrongfully removed to, or is being wrongfully retained in a Member State other than the Member State where the child was habitually resident immediately before the wrongful removal or retention, the provisions of the 1980 Hague Convention shall be applied in accordance with Chapter III of this Regulation.

↓ 2201/2003 (adapted)
⇨ new

Article ~~61~~ 75

Relation with the Hague Convention of 19 October 1996 on Jurisdiction, Applicable ~~I~~Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children

1. As concerns the relation with the ⌦ 1996 ⌫ 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~~, this Regulation shall apply:

(a) ⇨ subject to paragraph 2, ⇦ where the child concerned has his or her habitual residence ~~on~~ ⌦ in ⌫ the territory of a Member State;

(b) as concerns the recognition and enforcement of a ~~judgment~~ ⌦ decision ⌫ given ~~in a court~~ ⌦ by an authority ⌫ of a Member State ~~on~~ ⌦ in ⌫ the territory of another Member State, even if the child concerned has his or her habitual residence ~~on~~ ⌦ in ⌫ the territory of a ~~third~~ State which is a contracting Party to the said Convention ⇨ and in which this Regulation does not apply ⇦ .

⇩ new

2. Notwithstanding paragraph 1,

(a) where the parties have agreed upon the jurisdiction of an authority in a State Party to the 1996 Hague Convention in which this Regulation does not apply, Article 10 of that Convention shall apply;

(b) with respect to the transfer of jurisdiction between an authority in a Member State and an authority in a State Party to the 1996 Hague Convention in which this Regulation does not apply, Articles 8 and 9 of that Convention shall apply;

(c) where proceedings relating to parental responsibility are pending before an authority of a State Party to the 1996 Hague Convention in which this Regulation does not apply at the time when an authority in a Member State is seised of proceedings relating to the same child and involving the same cause of action, Article 13 of that Convention shall apply.

3. When applying Chapter III – Applicable Law of the 1996 Hague Convention in proceedings before an authority of a Member State, the reference in Article 15(1) of that Convention to 'the provisions of Chapter II' of that Convention shall be read as 'the provisions of Section 2 of Chapter II of this Regulation'.

↓ 2201/2003 (adapted)
⇨ new

Article ~~62~~ 76

Scope of effects

1. The agreements and conventions referred to in Articles ~~59(1), 60 and 61~~ 72 to 75 shall continue to have effect in relation to matters not governed by this Regulation.

2. The conventions ~~mentioned~~ ⌦ referred to ⌫ in ~~Article 60~~ Articles 73, 74 ⇨ and 75 ⇦ , in particular the 1980 ⇨ and 1996 ⇦ Hague Conventions, continue to produce effects between the Member States which are ~~p~~Party thereto, in compliance with ~~Article 60~~ Articles 73, 74 ⇨ and 75. ⇦

Article ~~63~~ 77

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 III,~~ Section 1 of Chapter IV.

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;

↓ 2116/2004 Art. 1.1

(c) Agreement between the Holy See and Malta on the recognition of civil effects to canonical marriages and to decisions of ecclesiastical authorities and tribunals on those marriages of 3 February 1993, including the Protocol of application of the same date, with the second Additional Protocol of 6 January 1995.

↓ 2116/2004 Art. 1.2

4. Recognition of the decisions provided for in paragraph 2 may, in Spain, Italy or Malta, 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.

↓ 2201/2003 (adapted)
⇨ new

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 ~~VI~~ IX

~~TRANSITIONAL~~ ⌦ FINAL ⌫ PROVISIONS

Article ~~64~~ 78

⌦ Transitional provisions ⌫

1. ~~The provisions of~~ tThis Regulation shall apply only to legal proceedings instituted, to ~~documents~~ ⌦ authentic instruments ⌫ formally drawn up or registered ~~as authentic instruments~~ and to agreements ⇨ approved or ⇦ concluded ~~between the parties~~ ⌦ on or ⌫ after ~~its~~ ⌦ [*the* ⌫ *date of application* ⌦ *of this Regulation*] ⌫ ~~in accordance with Article 72~~.

⇩ new

2. Regulation (EC) No 2201/2003 shall continue to apply to decisions given in legal proceedings instituted, to authentic instruments formally drawn up or registered and to agreements approved or concluded before [*the date of application of this Regulation*] which fall within the scope of that Regulation.

~~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 III of this Regulation if jurisdiction was founded on rules which accorded with those provided for either in Chapter II 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 III 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 III 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 Chapter II 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.~~

↓ 2201/2003 (adapted)
⇨ new

~~CHAPTER VII~~

~~FINAL PROVISIONS~~

Article ~~65~~ 79

~~Review~~ ⌦ Monitoring and Evaluation ⌫

~~No later than 1 January 2012,~~ ~~and every five years thereafter,~~ ⇨ By [10 years after the date of application] ⇦ the Commission shall present to the European Parliament, to the Council and to the European Economic and Social Committee a report on the ~~application~~ ⌦ ex post evaluation ⌫ of this Regulation ~~on the basis of~~ ⌦ supported by ⌫ information supplied by the Member States. The report shall be accompanied ~~if need be~~ ⌦ , where necessary, ⌫ by ⌦ a legislative ⌫ proposal~~s~~ ~~for adaptations~~.

⇩ new

2. The Member States shall collect and make available to the Commission upon request, possibly through the European Judicial Network in civil and commercial matters, information, in particular, on:

(a) the number of decisions in matrimonial matters or in matters of parental responsibility in which jurisdiction was based on the grounds laid down in this Regulation;

(b) with regard to applications for enforcement pursuant to Article 32, the number of cases where enforcement has not occurred within six weeks from the moment the enforcement proceedings were initiated;

(c) the number of applications for refusal of recognition of a decision pursuant to Article 39 and, if collection is possible, the number of cases in which the refusal of recognition was granted;

(d) the number of applications for refusal of enforcement of a decision pursuant to Article 41 and, if collection is possible, the number of cases in which the refusal of enforcement was granted;

(e) the number of appeals lodged pursuant to Articles 44 and 45, respectively.

↓ 2201/2003 (adapted)
⇨ new

Article ~~66~~ 80

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 ⌦ Member ⌫ State;

(c) any reference to the authority of a Member State shall refer to the authority of a territorial unit within that ⌦ Member ⌫ 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 ~~67~~ 81

Information ~~on central authorities and languages accepted~~ ⌦ to be communicated to the Commission ⌫

1. The Member States shall communicate to the Commission ~~within three months following the entry into force of this Regulation~~ ⌦ the following ⌫ :

(a) the names, addresses and means of communication for the ~~e~~Central ~~a~~Authorities designated pursuant to Article ~~53~~60;

(b) the languages accepted for communications to ~~e~~Central ~~a~~Authorities pursuant to Article ~~57(2)~~ 66(2);

~~and~~

(c) the languages accepted for the ~~certificate concerning rights of access pursuant to Article 45(2).~~ ⇨ translations pursuant to the second subparagraph of Article 26(2), Article 64(4), Article 65(2), and Article 69(2); ⇦

~~*Article 68*~~

~~**Information relating to courts and redress procedures**~~

(d) ~~The Member States shall notify to the Commission~~ the ~~lists of~~ courts ⌦ referred to in ⌫ ⇨ Article 16, Article 32(1), ⇦ ⌦ Article 41(1), Article 44(2) and Article 45; ⌫

(e) ~~and~~ ⌦ the ⌫ redress procedures referred to in Articles ~~21,~~ ~~29, 33 and 34~~ 44 and 45 ~~and any amendments thereto~~.

⇩ new

2. The Member States shall communicate the information referred to in paragraph 1 to the Commission by [*three months following the entry into force of this Regulation – OPOCE, please replace with actual date*].

🡻 2201/2003 (adapted)
⇨ new

~~The Commission shall update this information and make it publicly available through the publication in the *Official Journal of the European Union* and any other appropriate means.~~

3. The Member States shall communicate to the Commission any changes to ~~this~~ ⌦ that ⌫ information.

4. The Commission shall make ~~this~~ ⌦ the ⌫ information publicly available ⌦ through appropriate means, ⌫ ⇨ including through the European e-Justice Portal ⇦ .

Article ~~71~~ 82

Repeal ~~of Regulation (EC) No 1347/2000~~

1. ⇨ Subject to Article 78(2), ⇦ Regulation (EC) No ~~1347/2000~~ ⌦ 2201/2003 ⌫ ~~shall be~~ ⌦ is ⌫ repealed ~~as~~ from [the date of application of this Regulation].

2. ~~Any reference~~ ⌦ References ⌫ to ⌦ the repealed ⌫ Regulation ~~(EC) No 1347/2000~~ shall be construed as ~~a reference~~ ⌦ references ⌫ to this Regulation ~~according to~~ ⌦ and shall be read in accordance with ⌫ the ~~comparative~~ ⌦ correlation ⌫ table in Annex V.

Article ~~72~~ 83

Entry into force

This Regulation shall enter into force on ~~1 August 2004~~ ⌦ the twentieth day following that of its publication in the *Official Journal of the European Union* ⌫ .

The Regulation shall apply from ~~1 March 2005~~ ⌦ […] ⌫ , with the exception of Articles ~~67,~~ ~~68,~~ ~~69 and 70~~ 70, 71 and 81, which shall apply from ~~1 August 2004~~ ⌦ [the date of entry into force of this Regulation] ⌫ .

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

Done at Brussels,

For the Council
The President

↓ 2201/2003 (adapted)

ANNEX I

CERTIFICATE REFERRED TO IN ARTICLE ~~39~~ 53 CONCERNING ~~JUDGMENTS~~ ⌦ DECISIONS ⌫ IN MATRIMONIAL MATTERS[~~49~~] [50]

1. Member State of origin

⌦ □ Belgium (BE) □ Bulgaria (BG) □ Czech Republic (CZ) □ Germany (DE) □ Estonia (EE)

□ Ireland (IE) □ Greece (EL) □ Spain (ES) □ France (FR) □ Croatia (HR) □ Italy (IT)

□ Cyprus (CY) □ Latvia (LV) □ Lithuania □ Luxembourg (LU) □ Hungary (HU)

□ Malta (MT) □ Netherlands (NL) □ Austria (AT) □ Poland (PL) □ Portugal (PT)

□ Romania (RO) □ Slovenia (SI) □ Slovakia (SK) □ Finland (FI) □ Sweden (SE)

□ United Kingdom (UK) ⌫

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. Address~~

~~3.1.3. Country and place of birth~~

~~3.1.4. Date of birth~~

[49] ~~Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.~~

[50] Council Regulation (EC) No xxxx/20xx of xx xxxxxr 20xx on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and in matters of parental responsibility, and on international child abduction.

3.2. Husband

3.2.1. Full name

3.2.2. Address

3.2.3. Country and place of birth

3.2.4. 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[51]

6. Names of parties to whom legal aid has been granted

[51] Documents referred to in Article 37(2) must be attached.

~~**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~~

⌦ 3. Authority which gave the decision

3.1. Name of the authority

3.2. Place of the authority

4. Decision

4.1. Date

4.2. Reference number

4.3. Type of decision

4.3.1. Divorce

4.3.2. Marriage annulment

4.3.3. Legal separation

4.4. Was the decision given in default of appearance?

4.4.1. No

4.4.2. Yes ⌫

⇩ new

5. Where the decision was given in default of appearance:

5.1. The person defaulting was 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.

5.1.1. Yes

5.1.2. No

5.2. The person has been served with the document but not in compliance with these conditions, but it is nevertheless established that he or she accepted the decision unequivocally.

5.2.1. Yes

5.2.2. No

↓ 2201/2003 (adapted)

⌦ 6. Marriage

6.1. Wife

6.1.1. Full name

6.1.2. Address

6.1.3. Country and place of birth

6.1.4. Date of birth

6.2. Husband

6.2.1. Full name

6.2.2. Address

6.2.3. Country and place of birth

6.2.4. Date of birth

6.3. Country, place (where available) and date of marriage

6.3.1. Country of marriage

6.3.2. Place of marriage (where available)

6.3.3. Date of marriage

7. Names of parties to whom legal aid has been granted

8. Is the decision subject to further appeal under the law of the Member State of origin?

8.1. No

8.2. Yes

9. Date of legal effect in the Member State where the decision was given

9.1. Divorce

9.2. Legal separation ⌫

⇩ new

10. Costs[52]:

10.1. Currency:

□ euro (EUR) □ Bulgarian lev (BGN) □ Croatian kuna (HRK) □ Czech koruna (CZK) □ Hungarian forint (HUF) □ Polish zloty (PLN) □ Pound Sterling (GBP) □ Romanian leu (RON) □ Swedish krona (SEK) □ Other (please specify (ISO code)):

10.2. The following person(s) against whom enforcement is sought has/have been ordered to bear the costs:

10.2.1. Full name

10.2.2. If more than one person has been ordered to bear the costs, the whole amount may be collected from any one of them:

10.2.2.1. □ Yes

10.2.2.2. □ No

10.3. The costs of which recovery is sought are as follows[53]:

10.3.1. □ The costs have been fixed in the decision by way of a total amount (please specify amount):

10.3.2. □ The costs have been fixed in the decision by way of a percentage of total costs (please specify percentage of total):

10.3.3. □ Liability for the costs has been determined in the decision and the exact amounts are as follows:

10.3.3.1. □ Court fees:

10.3.3.2. □ Lawyers' fees:

10.3.3.3. □ Cost of service of documents:

10.3.3.4. □ Other:

10.3.4. □ Other (please specify):

10.4. Interest on costs:

10.4.1. □ Not applicable

10.4.2. □ Interest specified in the decision

[52] This point also covers situations where the costs are awarded in a separate decision.

[53] In the event that the costs may be recovered from several persons, insert the breakdown for each person separately.

10.4.2.1. □ Amount:

or

10.4.2.2. □ Rate … %

10.4.2.2.1. Interest due from ….. (date (dd/mm/yyyy) or event) to ….. (date (dd/mm/yyyy) or event)[54]

10.4.3. □ Statutory interest (if applicable) to be calculated in accordance with (please specify relevant statute):

10.4.3.1. Interest due from ..... (date (dd/mm/yyyy) or event) to ..... (date (dd/mm/yyyy) or event)[55]

10.4.4. □ Capitalisation of interest (if applicable, please specify):

↓ 2201/2003

Done at …, date …

Signature and/or stamp

[54] Insert information for all periods if more than one.
[55] Insert information for all periods if more than one.

↓ 2201/2003 (adapted)

ANNEX II

CERTIFICATE REFERRED TO IN ARTICLE ~~39~~ 53 CONCERNING ~~JUDGMENTS~~ ⌦ DECISIONS ⌫ ON PARENTAL RESPONSIBILITY[~~56~~57] ⌦ , INCLUDING RIGHTS OF ACCESS; OR THE RETURN OF THE CHILD ⌫

1. Member State of origin

⌦ □ Belgium (BE) □ Bulgaria (BG) □ Czech Republic (CZ) □ Germany (DE) □ Estonia (EE)
□ Ireland (IE) □ Greece (EL) □ Spain (ES) □ France (FR) □ Croatia (HR) □ Italy (IT)
□ Cyprus (CY) □ Latvia (LV) □ Lithuania (LT) □ Luxembourg (LU) □ Hungary (HU)
□ Malta (MT) □ Netherlands (NL) □ Austria (AT) □ Poland (PL) □ Portugal (PT)
□ Romania (RO) □ Slovenia (SI) □ Slovakia (SK) □ Finland (FI) □ Sweden (SE)
□ United Kingdom (UK) ⌫

2. ~~COURT OR~~ AUTHORITY ISSUING THE CERTIFICATE

2.1. Name

2.2. Address

2.3. Tel./Fax/e-mail

~~**3. PERSON(S) WITH RIGHTS OF ACCESS**~~

~~3.1. Full name~~

~~3.2. Address~~

~~3.3. Date and place of birth (where available)~~

~~**4. HOLDERS OF PARENTAL RESPONSIBILITY OTHER THAN THOSE MENTIONED UNDER 3**[58]~~

~~4.1. 4.1.1. Full name~~

~~4.1.2. Address~~

~~4.1.3. Date and place of birth (where available)~~

56 ~~Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.~~

57 Council Regulation (EC) No xxxx/20xx of xx xxxxx 20xx on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and in matters of parental responsibility, and on international child abduction, repealing Regulation (EC) No 2201/2003.

58 ~~In cases of joint custody, a person already mentioned under item 3 may also be mentioned under item 4.~~

4.2. 4.2.1. Full Name

4.2.2. Address

4.2.3. Date and place of birth (where available)

4.3. 4.3.1. Full name

4.3.2. Address

4.3.3. Date and place of birth (where available)

5. COURT WHICH DELIVERED THE JUDGMENT

5.1. Name of Court

5.2. Place of Court

6. JUDGMENT

6.1. Date

6.2. Reference number

6.3. Was the judgment given in default of appearance?

6.3.1. No

6.3.2. Yes[59]

7. CHILDREN WHO ARE COVERED BY THE JUDGMENT[60]

7.1. Full name and date of birth

7.2. Full name and date of birth

7.3. Full name and date of birth

7.4. Full name and date of birth

8. Names of parties to whom legal aid has been granted

9. ATTESTATION OF ENFORCEABILITY AND SERVICE

9.1. Is the judgment enforceable according to the law of the Member State of origin?

9.1.1. Yes

59 Documents referred to in Article 37(2) must be attached.

60 If more than four children are covered, use a second form.

~~9.1.2. No~~

~~9.2. Has the judgment been served on the party against whom enforcement is sought?~~

~~*9.2.1. Yes*~~

~~9.2.1.1. Full name of the party~~

~~9.2.1.2. Address~~

~~9.2.1.3. Date of service~~

~~9.2.2. No~~

~~10. SPECIFIC INFORMATION ON JUDGMENTS ON RIGHTS OF ACCESS WHERE 'EXEQUATUR' IS REQUESTED UNDER ARTICLE 28. THIS POSSIBILITY IS FORESEEN IN ARTICLE 40(2).~~

~~10.1. Practical arrangements for exercise of rights of access (to the extent stated in the judgment)~~

~~*10.1.1. Date and time*~~

~~10.1.1.1. Start~~

~~10.1.1.2. End~~

~~10.1.2. Place~~

~~10.1.3. Specific obligations on holders of parental responsibility~~

~~10.1.4. Specific obligations on the person with right of access~~

~~10.1.5. Any restrictions attached to the exercise of rights of access~~

~~11. SPECIFIC INFORMATION FOR JUDGMENTS ON THE RETURN OF THE CHILD IN CASES WHERE THE 'EXEQUATUR' PROCEDURE IS REQUESTED UNDER ARTICLE 28. THIS POSSIBILITY IS FORESEEN UNDER ARTICLE 40(2).~~

~~11.1. The judgment entails the return of the child~~

~~11.2. Person to whom the child is to be returned (to the extent stated in the judgment)~~

~~11.2.1. Full name~~

~~11.2.2 Address~~

⌦ 3. Authority which gave the decision

3.1. Name of the authority

3.2. Place of the authority

4. Decision

4.1. Date

4.2. Reference number

5. Holders of parental responsibility

5.1. Parent 1

5.1.1. Full name

5.1.2. Address

5.1.3. Date and place of birth (where available)

5.2. Parent 2

5.2.1. Full name

5.2.2. Address

5.2.3. Date and place of birth (where available)

5.3. Other holder of parental responsibility

5.3.1. Full name

5.3.2. Address

5.3.3. Date and place of birth (where available)

6. Children who are covered by the decision[61]

6.1. Child 1

6.1.1 Full name

6.1.2. Date of birth

6.1.3. Address

6.2. Child 2

6.2.1. Full name

6.2.2. Date of birth

6.2.3. Address

6.3. Child 3

[61] If more than four children are covered, use a second form.

6.3.1. Full name

6.3.2. Date of birth

6.3.3. Address

6.4. Child 4

6.4.1. Full name

6.4.2. Date of birth

6.4.3. Address

7. Names of parties to whom legal aid has been granted

8. Attestation of enforceability and service

8.1. Is the decision enforceable according to the law of the Member State of origin?

8.1.1. Yes

8.1.2. No

8.2. Has the decision 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. Address

8.2.1.3. Date of service

8.2.2. No

9. Where the decision was given in default of appearance:

9.1. The person defaulting was 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.

9.1.1. Yes

9.1.2. No

9.2. The person has been served with the document but not in compliance with these conditions, but it is nevertheless established that he or she accepted the decision unequivocally.

9.2.1. Yes

9.2.2. No

10. All parties concerned were given an opportunity to be heard.

10.1. Yes

10.2. No ⌫

⇩ new

11. The child was given a genuine and effective opportunity to express his or her views.

11.1. Yes

12. Due weight was given to the child's views.

12.1. Yes

🡻 2201/2003 (adapted)

⌦ 13. Specific information on decisions granting rights of access

13.1. Person(s) who was/were granted rights of access[62]

13.1.1. Full name

13.1.2. Address

13.1.3. Date and place of birth (where available)

13.2. Practical arrangements for the exercise of rights of access (to the extent stated in the decision)

13.2.1. Date and time

13.2.1.1. Start

13.2.1.2. End

13.2.2. Place

13.2.3. Specific obligations on holders of parental responsibility

13.2.4. Specific obligations on the person granted rights of access

13.2.5. Any restrictions attached to the exercise of rights of access

14. Specific information on decisions entailing the return of the child

14.1. The decision entails the return of the child

[62] In cases of joint custody, a person already mentioned under point 5 may also be mentioned under point 13.1.

14.2. Person to whom the child is to be returned (to the extent stated in the decision)

14.2.1. Full name

14.2.2. Address ⌫

⇩ new

15. Where applicable, details of measures taken by courts or authorities to ensure the protection of the child during or after his or her return to the Member State of habitual residence:

16. The decision was based on the second subparagraph of Article 26(4) of the Regulation and entails the return of the child(ren); and the court has taken into account in giving its decision the reasons for and evidence underlying the decision given pursuant to Article 13 of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction:

16.1. Yes

16.2. No

17. Specific information on any other decision in matters of parental responsibility:

17.1. Description of the obligation to be enforced:

18. Costs[63]:

18.1. Currency:

□ euro (EUR) □ Bulgarian lev (BGN) □ Croatian kuna (HRK) □ Czech koruna (CZK) □ Hungarian forint (HUF) □ Polish zloty (PLN) □ Pound Sterling (GBP) □ Romanian leu (RON) □ Swedish krona (SEK) □ Other (please specify (ISO code)):

18.2. The following person(s) against whom enforcement is sought has/have been ordered to bear the costs:

18.2.1. Full name

18.2.2. If more than one person has been ordered to bear the costs, the whole amount may be collected from any one of them:

18.2.2.1. □ Yes

18.2.2.2. □ No

18.3. The costs of which recovery is sought are as follows[64]:

---

[63] This point also covers situations where the costs are awarded in a separate decision.

18.3.1. □ The costs have been fixed in the decision by way of a total amount (please specify amount):

18.3.2. □ The costs have been fixed in the decision by way of a percentage of total costs (please specify percentage of total):

18.3.3. □ Liability for the costs has been determined in the decision and the exact amounts are as follows:

18.3.3.1. □ Court fees:

18.3.3.2. □ Lawyers' fees:

18.3.3.3. □ Cost of service of documents:

18.3.3.4. □ Other:

18.3.4. □ Other (please specify):

18.4. Interest on costs:

18.4.1. □ Not applicable

18.4.2. □ Interest specified in the decision

18.4.2.1. □ Amount:

or

18.4.2.2. □ Rate … %

18.4.2.2.1. Interest due from ….. (date (dd/mm/yyyy) or event) to ….. (date (dd/mm/yyyy) or event)[65]

18.4.3. □ Statutory interest (if applicable) to be calculated in accordance with (please specify relevant statute):

18.4.3.1. Interest due from ..... (date (dd/mm/yyyy) or event) to ..... (date (dd/mm/yyyy) or event)[66]

18.4.4. □ Capitalisation of interest (if applicable, please specify):

↓ 2201/2003

Done at …, date ….

Signature and/or stamp

---

[64] In the event that the costs may be recovered from several persons, insert the breakdown for each person separately.

[65] Insert information for all periods if more than one.

[66] Insert information for all periods if more than one.

↓ 2201/2003 (adapted)

ANNEX III

CERTIFICATE REFERRED TO IN ARTICLE 41(1) CONCERNING JUDGMENTS ON RIGHTS OF ACCESS[67]

1. Member State of origin

2. COURT OR AUTHORITY ISSUING THE CERTIFICATE

2.1. Name

2.2. Address

2.3. Tel./fax/e-mail

3. PERSON(S) WITH RIGHTS OF ACCESS

3.1. Full name

3.2. Address

3.3. Date and place of birth (where available)

4. HOLDERS OF PARENTAL RESPONSIBILITY OTHER THAN THOSE MENTIONED UNDER 3[68][69]

4.1. 4.1.1. Full name

4.1.2. Address

4.1.3. Date and place of birth (where available)

4.2. 4.2.1. Full name

4.2.2. Address

4.2.3. Date and place of birth (where available)

4.3. Other

4.3.1. Full name

4.3.2. Address

---

67 Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

68 In cases of joint custody, a person already mentioned under item 3 may also be mentioned in item 4.

69 Please put a cross in the box corresponding to the person against whom the judgment should be enforced.

4.3.3. Date and place of birth (where available)

5. COURT WHICH DELIVERED THE JUDGMENT

5.1. Name of Court

5.2. Place of Court

6. JUDGMENT

6.1. Date

6.2. Reference number

7. CHILDREN WHO ARE COVERED BY THE JUDGMENT[70]

7.1. Full name and date of birth

7.2. Full name and date of birth

7.3. Full name and date of birth

7.4. Full name and date of birth

8. IS THE JUDGMENT ENFORCEABLE IN THE MEMBER STATE OF ORIGIN?

8.1. Yes

8.2. No

9. Where the judgment was given in default of appearance, the person defaulting was 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 defence, or the person has been served with the document but not in compliance with these conditions, it is nevertheless established that he or she accepted the decision unequivocally

10. All parties concerned were given an opportunity to be heard.

11. The children were given an opportunity to be heard, unless a hearing was considered inappropriate having regard to their age or degree of maturity

12. PRACTICAL ARRANGEMENTS FOR EXERCISE OF RIGHTS OF ACCESS (TO THE EXTENT STATED IN THE JUDGMENT)

12.1. Date and time

12.1.1. Start

70 If more than four children are concerned, use a second form.

~~12.1.2. End~~

~~12.2. Place~~

~~12.3. Specific obligations on holders of parental responsibility~~

~~12.4. Specific obligations on the person with right of access~~

~~12.5. Any restrictions attached to the exercise of rights of access~~

~~13. Names of parties to whom legal aid has been granted~~

~~Done at …, date ….~~

~~Signature and/or stamp~~

↓ 2201/2003 (adapted)

~~ANNEX IV~~

~~CERTIFICATE REFERRED TO IN ARTICLE 42(1) CONCERNING THE RETURN OF THE CHILD~~[71]

~~1. Member State of origin~~

~~**2. COURT OR AUTHORITY ISSUING THE CERTIFICATE**~~

~~2.1. Name~~

~~2.2. Address~~

~~2.3. Tel./fax/e-mail~~

~~**3. PERSON TO WHOM THE CHILD HAS TO BE RETURNED (TO THE EXTENT STATED IN THE JUDGMENT)**~~

~~3.1. Full name~~

~~3.2. Address~~

~~3.3. Date and place of birth (where available)~~

~~**4. HOLDERS OF PARENTAL RESPONSIBILITY**~~[72]

~~**4.1. Mother**~~

~~4.1.1. Full name~~

~~4.1.2. Address (where available)~~

~~4.1.3. Date and place of birth (where available)~~

~~**4.2. Father**~~

~~4.2.1. Full name~~

~~4.2.2. Address (where available)~~

~~4.2.3. Date and place of birth (where available)~~

71 ~~Council Regulation (EC) No 2201 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.~~

72 ~~This item is optional.~~

4.3. Other

4.3.1. Full name

4.3.2. Address (where available)

4.3.3. Date and place of birth (where available)

5. RESPONDENT (WHERE AVAILABLE)

5.1. Full name

5.2. Address (where available)

6. COURT WHICH DELIVERED THE JUDGMENT

6.1. Name of Court

6.2. Place of Court

7. JUDGMENT

7.1. Date

7.2. Reference number

8. CHILDREN WHO ARE COVERED BY THE JUDGMENT[73]

8.1. Full name and date of birth

8.2. Full name and date of birth

8.3. Full name and date of birth

8.4. Full name and date of birth

9. The judgment entails the return of the child

10. IS THE JUDGMENT ENFORCEABLE IN THE MEMBER STATE OF ORIGIN?

10.1. Yes

10.2. No

11. The children were given an opportunity to be heard, unless a hearing was considered inappropriate having regard to their age or degree of maturity

73 If more than four children are covered, use a second form.

~~12. The parties were given an opportunity to be heard~~

~~13. The judgment entails the return of the children and the court has taken into account in issuing its judgment the reasons for and evidence underlying the decision issued pursuant to Article 13 of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction~~

~~14. Where applicable, details of measures taken by courts or authorities to ensure the protection of the child after its return to the Member State of habitual residence~~

~~15. Names of parties to whom legal aid has been granted~~

~~Done at …, date ….~~

~~Signature and/or stamp~~

⇩ new

ANNEX III

CERTIFICATE REFERRED TO IN ARTICLE 56 CONCERNING AN AUTHENTIC INSTRUMENT OR AN AGREEMENT[74]

1. **AUTHORITY ISSUING THE CERTIFICATE**

1.1. Name:

1.2. Address:

1.2.1. Street and number/PO box:

1.2.2. Place and postal code:

1.2.3. Member State:

□ Belgium (BE) □ Bulgaria (BG) □ Czech Republic (CZ) □ Germany (DE) □ Estonia (EE)
□ Ireland (IE) □ Greece (EL) □ Spain (ES) □ France (FR) □ Croatia (HR) □ Italy (IT)
□ Cyprus (CY) □ Latvia (LV) □ Lithuania (LT) □ Luxembourg (LU) □ Hungary (HU)
□ Malta (MT) □ Netherlands (NL) □ Austria (AT) □ Poland (PL) □ Portugal (PT)
□ Romania (RO) □ Slovenia (SI) □ Slovakia (SK) □ Finland (FI) □ Sweden (SE)
□ United Kingdom (UK)

1.3. Telephone:

1.4. Fax

1.5. E-mail (if available):

2. **AUTHENTIC INSTRUMENT**

2.1. Authority which has drawn up the authentic instrument (if different from the authority issuing the certificate)

2.1.1. Name and designation of authority:

2.1.2. Address:

2.2. Date (dd/mm/yyyy) on which the authentic instrument was drawn up by the authority referred to in point 2.1:

2.3. Reference number of the authentic instrument (if applicable):

[74] Article 56 of Council Regulation ____ on jurisdiction and the recognition and enforcement of decisions in matrimonial matters and in matters of parental responsibility, and on international child abduction, repealing Regulation (EC) No 2201/2003.

2.4. Date (dd/mm/yyyy) on which the authentic instrument was registered in the Member State of origin (to be filled in only if the date of registration determines the legal effect of the instrument and this date is different from the date indicated in point 2.2):

2.4.1. Reference number in the register (if applicable):

3. **AGREEMENT**

3.1. Authority which approved the agreement or before which the agreement was concluded (if different from the authority issuing the certificate)

3.1.1. Name of authority:

3.1.2. Address:

3.2. Date (dd/mm/yyyy) of the agreement:

3.3. Reference number of the agreement:

4. **PARTIES TO THE AUTHENTIC INSTRUMENT/AGREEMENT**

4.1. Full name of first party:

4.1.1. Address:

4.1.2 Date and place of birth (where available):

4.2. Full name of second party:

4.2.1. Address:

4.2.2 Date and place of birth (where available)

4.3. Full name of other party, if any:

4.3.1. Address:

4.3.2 Date and place of birth (where available):

5. **ENFORCEABILITY OF THE AUTHENTIC INSTRUMENT/AGREEMENT IN THE MEMBER STATE OF ORIGIN**

5.1. The authentic instrument/agreement is enforceable in the Member State of origin

5.1.1. □ Yes

5.1.2. □ No

5.2. Terms of the authentic instrument/agreement

5.2.1. Short description of the enforceable obligation:

5.2.2.2. The obligation referred to in point 5.2 is enforceable against the following person(s)[75] (full name):

Done at: …

Signature and/or stamp of the authority of origin:

↓ 2201/2003

[75] Insert information for all persons if more than one.

↓ 2201/2003 (adapted)

~~ANNEX V~~

~~COMPARATIVE TABLE WITH REGULATION (EC) No 1347/2000~~

~~Articles repealed~~	~~Corresponding Articles of new text~~
~~1~~	~~1, 2~~
~~2~~	~~3~~
~~3~~	~~12~~
~~4~~	
~~5~~	~~4~~
~~6~~	~~5~~
~~7~~	~~6~~
~~8~~	~~7~~
~~9~~	~~17~~
~~10~~	~~18~~
~~11~~	~~16, 19~~
~~12~~	~~20~~
~~13~~	~~2, 49, 46~~
~~14~~	~~21~~
~~15~~	~~22, 23~~
~~16~~	
~~17~~	~~24~~
~~18~~	~~25~~
~~19~~	~~26~~
~~20~~	~~27~~
~~21~~	~~28~~
~~22~~	~~21, 29~~

~~23~~	~~30~~
~~24~~	~~31~~
~~25~~	~~32~~
~~26~~	~~33~~
~~27~~	~~34~~
~~28~~	~~35~~
~~29~~	~~36~~
~~30~~	~~50~~
~~31~~	~~51~~
~~32~~	~~37~~
~~33~~	~~39~~
~~34~~	~~38~~
~~35~~	~~52~~
~~36~~	~~59~~
~~37~~	~~60, 61~~
~~38~~	~~62~~
~~39~~	
~~40~~	~~63~~
~~41~~	~~66~~
~~42~~	~~64~~
~~43~~	~~65~~
~~44~~	~~68, 69~~
~~45~~	~~70~~
~~46~~	~~72~~
~~Annex I~~	~~68~~
~~Annex II~~	~~68~~
~~Annex III~~	~~68~~

~~Annex IV~~	~~Annex I~~
~~Annex V~~	~~Annex II~~

↓ 2201/2003 (adapted)

~~ANNEX VI~~

~~Declarations by Sweden and Finland pursuant to Article 59(2)(a) of the Council Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No 1347/2000.~~

~~**DECLARATION BY SWEDEN:**~~

~~Pursuant to Article 59(2)(a) of the Council Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No 1347/2000, Sweden hereby declares 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 full in relations between Sweden and Finland, in place of the rules of the Regulation.~~

~~**DECLARATION BY FINLAND:**~~

~~Pursuant to Article 59(2)(a) of the Council Regulation concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing Regulation (EC) No 1347/2000, Finland hereby declares that the Convention of 6 February 1931 between Finland, Denmark, Iceland, Norway and Sweden comprising international private law provisions on marriage, adoption and guardianship, together with the Final Protocol thereto, will apply in full in relations between Finland and Sweden, in place of the rules of the Regulation.~~

↑

ANNEX IV

Repealed Regulation with the amendment thereto

Council Regulation (EC) No 2201/2003
(OJ L 338, 23.12.2003, p. 1)

Council Regulation (EC) No 2116/2004
(OJ L 367, 14.12.2004, p. 1)

ANNEX V

Correlation Table

Regulation (EC) No 2201/2003	This Regulation
Article 1	Article 1
Article 2, introductory wording	Article 2, introductory wording
Article 2(1) to (6)	Article 2(1) to (6)
-	Article 2(7)
Article 2(7)	Article 2(8)
Article 2(8)	Article 2(9)
Article 2(9)	Article 2(10)
Article 2(10)	Article 2(11)
Article 2(11)	Article 2(12)
Articles 3, 4 and 5	Articles 3, 4 and 5
Article 6	Article 6(2)
Article 7(1)	Article 6(1)
Article 7(2)	Article 6(3)
Article 8	Article 7
Article 9	Article 8
Article 10, introductory wording	Article 9, introductory wording
Article 10(a)	Article 9(a)
Article 10(b), introductory wording	Article 9(b), introductory wording
Article 10(b)(i) and (ii)	Article 9(b)(i) and (ii)
-	Article 9(b)(iii)
Article 10(b)(iii)	Article 9(b)(iv)
Article 10(b)(iv)	Article 9(b)(v)
Article 11(1)	Article 21
Article 11(2)	Article 24

Article 11(3)	Article 23(1)
Article 11(4)	Article 25(1)
Article 11(5)	Article 25(2)
Article 11(6)	Article 26(2)
Article 11(7)	Article 26(3)
Article 11(8)	Article 26(4)
Article 12(1)	Article 10(1)
Article 12(2)	Article 10(2)
Article 12(3)	Article 10(3)
-	Article 10(4) and (5)
Article 12(4)	Article 10(6)
Article 13	Article 11
Article 14	Article 13
Article 15	Article 14
Article 16	Article 15
-	Article 16
Article 17, 18, and 19	Articles 17, 18, and 19
-	Article 20
Article 20	Article 12
Article 21	Article 27
-	Article 28
Article 22	Article 37
Article 23(a) (c), (d), (e), (f)	Article 38(1)
Article 23(b), (g)	-
Article 24, 25, 26	Articles 50, 51,52
Article 27	Article 29(a)

-	Article 29(b), (c)
Article 28 to 36	-
-	Articles 30 to 32
-	Articles 35, 36
-	Articles 39 to 49
Article 37(1)	Article 28(1)
-	Article 28(2)
Article 37(2)	-
-	Articles 34(2), (3)
Article 38	-
Article 39	Article 53(1), (2)
Article 40	-
Article 41(1)	Articles 30(2), 38(2), 53(2)
Article 41(2), (3)	Article 53(2)
Article 42(1)	Articles 38(2), 53(2)
Article 42(2)	Article 53(3) to (6)
-	Article 54(1), (2)
Article 43	Article 54(3), (4)
Article 44	Article 53(7)
Article 45(1)	Article 34(1)
Article 45(2)	Article 34(2), (3), 69
Article 46	Article 55
-	Article 56
Article 47(1)	Article 31(1)
-	Article 31(2)

Article 47(2)	-
Article 48	Article 33(1)
-	Article 33(2)
Article 49, 50, 51	Articles 57, 58,59
Article 52	Article 68
Article 53	Article 60
-	Article 61
Article 54	Article 62
Article 55, introductory wording	Art. 63(1) introductory wording, Art. 63(2)
-	Article 63(1)(a)
Article 55(a)	Articles 63(1)(b), 64(1)(a)
Article 55(b) to (e)	Article 63(1)(c) to (f)
-	Article 63(1)(g)
-	Article 63(3), (4)
-	Article 64(1)(b), (2) to (6)
Article 56(1)	Article 65(1)
-	Article 65(2)
Article 56(2)	Article 65(3)
-	Article 65(4)
Article 56(3)	Article 65(5)
Article 56(4)	-
Article 57, 58	Article 66, 67
-	Article 69
Article 59(1)	Article 72
Article 59(2), (3)	-

Article 60(a) to (d)	Article 73
Article 60(e)	Article 74
Article 61	Article 75(1)
-	Article 75(2), (3)
Article 62, 63, 64	Article 76, 77, 78
Article 65	Article 79(1)
-	Article 79(2)
Article 66	Article 80
Article 67, 68	Article 81
Article 69, 70	-
-	Article 70, 71
Article 71, 72	Article 82, 83
Annex I	Annex I
Annex II	-
Annex III	Annex II
Annex IV	Annex II
-	Annex III