Civil judicial cooperation: law applicable to maintenance obligations. 2007 The Hague Protocol

2009/0023(CNS) - 30/11/2009 - Final act

PURPOSE: to approve, on behalf of the European Community, the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations, with a view to working towards the establishment of a common judicial area based on the principle of mutual recognition of decisions.

LEGISLATIVE ACT: Council Decision 2009/941/EC on the conclusion by the European Community of the Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.

CONTENT: the Council adopted a decision on the conclusion of the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations. With this decision, all EU Member States are bound by the protocol's provisions except Denmark and the United Kingdom.

It should be noted that Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations provides that the law applicable to maintenance obligations shall be determined in accordance with the Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations in the Member States bound by that Protocol.

The protocol aims to ensure greater legal certainty and predictability to maintenance creditors and debtors. It determines the law applicable to maintenance obligations arising from a family relationship, parentage, marriage or affinity, including a maintenance obligation in respect of a child regardless of the marital status of the parents.

Application of the Protocol in the Community will guarantee the application within the Member States of uniform and harmonised rules on applicable law in maintenance matters.

Within the Community, the rules of the Protocol shall apply provisionally, without prejudice to Article 5 of this Decision, from 18 June 2011, the date of application of Regulation (EC) No 4/2009, if the Protocol has not yet entered into force on that date.