Civil judicial cooperation: divorce and parental responsibility

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The Commission presented a report on the application of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

Effects of intra-EU mobility on families: the growing mobility of citizens within the Union has led to an increasing number of families with an international dimension, notably families whose members are of different nationalities, live in different Member States or live in a Member State of which one or more of them are not nationals.

In 2011, there were 33.3 million foreign citizens resident in the Union-27, 6.6% of the total population. The majority, 20.5 million, were citizens of non-Union countries, while the remaining 12.8 million were citizens of other Union Member States.

According to Article 81 of the Treaty on the Functioning of the European Union, the Union adopts measures in the field of judicial cooperation in civil matters having cross-border implications. Where families break up, such cooperation is particularly necessary to **give children a secure legal environment** to maintain relations with persons who have parental responsibility over them and may live in another Member State.

Regulation No 1347/2000 laying down rules on jurisdiction, recognition and enforcement of judgments on divorce, separation and marriage annulment as well as judgments on parental responsibility for the children of both spouses was the first Union instrument adopted in the area of judicial cooperation in family law matters.

This Regulation was repealed by Regulation No 2201/20033 (commonly known as the **Brussels IIa Regulation**). It is the **cornerstone of Union judicial cooperation in matrimonial matters and matters of parental responsibility**. It applies since 1 March 2005 to all Member States except Denmark.

Avoid conflicts-of-law: the Regulation provides for uniform rules to settle conflicts of jurisdiction between Member States and facilitates the free circulation of judgments, authentic instruments and agreements in the Union by laying down provisions on their **recognition and enforcement in another Member State**.

It complements the Hague Convention of 25 October 1980 on the civil aspects of international child abduction.

This Regulation does not contain rules to determine which law applies to cross-border disputes in the fields covered by it. In 2006, the Commission proposed amendments to the Regulation as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters. **No unanimity could be reached within the Council** with regard to the rules on applicable law and the Commission therefore withdrew the 2006 proposal to amend the Regulation.

On the basis of new Commission proposals, 14 Member States agreed to establish enhanced cooperation among themselves12 and adopted Regulation (EU) No 1259/2010 laying down rules determining the law applicable to divorce and legal separation (hereafter "the Rome III Regulation"). This was the first time

that enhanced cooperation was used in the Union. By its nature, an enhanced cooperation is open to the participation of all Member States with the ultimate goal that the Rome III Regulation is taken up by all Member States. Since the adoption of the Rome III Regulation two more Member States have decided to participate in the enhanced cooperation.

Purpose of the report and main conclusions: this report concerns the monitoring of the implementation of the Brussels IIa Regulation. It follows the structure of the Regulation by reviewing in separate sections the provisions on jurisdiction, recognition and enforceability of judgments and cooperation between Member States' Central Authorities. It also focuses more specifically on a number of cross-cutting issues, namely the **return of the child in cases of parental abduction, the enforcement of judgments and the placement of a child in another Member State**.

The report concluded that the Regulation is a well-functioning instrument that has brought important benefits to citizens. It has facilitated the settlement of increasing cross-border litigation in matrimonial and parental responsibility matters through a **comprehensive system of jurisdiction rules and an efficient system of cooperation between Member State Central Authorities**. It also prevents parallel proceedings and the free circulation of judgments, authentic instruments and agreements.

The provisions on the return of the child complementing the 1980 Hague Convention aimed at deterring parental child abduction between Member States are regarded as particularly useful. However, there are indications on the basis of data and preliminary feedback from experts that **existing rules could be improved**. In order to explore comprehensively the concerns identified in this report, the Commission intends to launch a further policy evaluation of the existing rules and their impact on citizens. To this end, the Commission will also launch a **public consultation**. On the basis of the evaluation and the replies to the public consultation, the Commission will take action as appropriate.