Matrimonial matters: jurisdiction, recognition and enforcement of judgements. Convention and Protocol

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OBJECTIF : to establish a draft Convention on jurisdiction, recognition and enforcement of judgments in matrimonial matters (divorce, legal separation, marriage annulment and custody of children). CONTENT : The present draft Convention seeks to complement the Brussels Convention of 1968 on the recognition and enforcement of judgments in civil and commercial matters. Under the draft Convention, couples of mixed nationality must divorce in the Member State in which they reside and the divorce judgment must be recognised and accepted, with a minimum of formalities, throughout the European Union. The same shall apply to decisions on the custody of the children as well as to legal separation and marriage annulment. Spouses who are resident in a Member State other than their country of origin may opt for a hearing in the courts of their country of origin. The draft Convention also rules on conflicts of jurisdiction: the first jurisdiction referred to shall pronounce on competence in matrimonial matters, while the second shall in theory suspend its judgment. It is also proposed to restrict jurisdiction to the Court of Justice of the European Communities in matters of interpretation. The text provides a list of national jurisdictions which are open to European judges. Before it can come into force, the Convention must be ratified by the national Parliaments of the 15 Member States. The Convention includes certain derogations : - for Ireland, which has recently recognised divorce and which is to be granted a transitional period for application of the Convention; -for the United Kingdom, in order that the decisions taken by the British Courts in respect of "children of the family" (children born of a first marriage, for example) can be accepted in the Union from the moment that these children are living with one or other of their parents-in-law.