Civil judicial cooperation: divorce and parental responsibility

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PURPOSE : the recognition and enforcement of decisions in matrimonial matters and those of parental responsibility based on common rules of jurisdiction. CONTENT : this Regulation comprehends a single instrument on divorce and parental responsibility. As regards matrimonial matters, the relevant provisions are taken over from Council Regulation 1347/2000/EC. On parental responsibility, the objective of Community action is to protect the child's best interests. This means, in particular, to give concrete expression to his or her fundamental right to maintain contact with both parents, as laid down in Aritlce 24 of the Charter of Fundamental Rights of the EU. To this end, the Commission proposes: -to extend the principle of mutual recognition to all decisions on parental responsibility; -to abolish exequatur for rights of access (corresponding to the French initiative); -matters relating to maintenance are excluded; -jurisdiction shall lie in the first place with the Member State of the child's habitual residence, except for certain cases of a change in the child's residence or pursuant to an agreement between the holders of parental responsibility; -the proposal does not prevent Member States from taking protective measures in urgent cases with regard to persons or property situated in the State; -in cases of child abduction, the courts of the Member State to which the child has been removed are able to take a provisional protective measure not to return the child, which is superseded by a judgement on custody issued by the courts of the child's former habitual residence. Should that judgement entail the return of the child, the child must be returned without any special procedure being required for recognition and enforcement in the Member State to which the child is being abducted. The child has a right to be heard. -the recognition and enforcement of judgements given in a Member State are based on the principle of mutual trust and the grounds for non-recognition must be kept to the minimum required. These relate to observing public policy in the Member State of enforcement, safeguarding the rights of defence and those of the parties, including the rights of the child, and withholding recognition of irreconcilable judgments; -no special procedure is required in the Member State of enforcement for judgments on rights of access and return that have been certified in the Member State of origin; -Denmark is not bound by the proposed Regulation.