Civil judicial cooperation: judgments in matrimonial matters and parental responsability, Brussels II Convention

1999/0110(CNS) - 09/11/1999

The committee adopted a report by Mrs Evelyne GEBHARDT (PES, D) approving the proposal for a Council Regulation subject to a number of amendments. The regulation provides for divorces and child custody judgments pronounced in one Member State to be recognized automatically by all other Member States. The committee felt that such automatic recognition should be equally valid for nationals of third countries who are legally resident in the EU. Recognition of a divorce should not be refused by a Member State on the grounds that the divorce is not recognised by the third country concerned. The committee further felt that the protection of children needed strengthening. The draft regulation provides for children to have an opportunity to be heard in custody cases. However in stressful situations this should, if possible, be avoided. The child's best interest must always be paramount. Other amendments were of a more legal nature. For example, the committee proposed to clarify when a court should be deemed to have been seized, in order to avoid confusion over which court is seized first and thus should have jurisdiction. Furthermore, the definition of 'parental responsibility' should not be left to the Member States, as this might lead to different interpretations. The committee also wanted to avoid listing in the regulation itself which courts have jurisdiction or the appeal procedures permitted. It preferred to include these matters in a separate annex, thus avoiding the need for legislative acts whenever purely technical amendments have to be introduced.