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

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PURPOSE: the improvement of the recognition of judgments in relation to the dissolution of the marriage link and in matters of parental responsibility for joint children, with a view to ensuring the sound operation of the internal market. CONTENT: the proposal for a Regulation falls within the ambit of the new provisions of the Amsterdam Treaty concerning judicial co-operation in civil matters (Arts. 61 and 65 of the EC Treaty). It seeks to uniformise the rules of private international law in the Member States relating to jurisdiction and to improve the recognition and enforcement of judgments in relation to the dissolution of the marriage link and parental responsibility for joint children. The proposed Regulation incorporates most of the content of the 28 May 1968 Convention on jurisdiction and the recognition and enforcement of judgments in matrimonial matters (known as 'Brussels Convention II'), while ensuring continuity in the results of the negotiations. Because the Convention was not ratified by the Member States before the Amsterdam Treaty entered into force, its provisions are not applicable. Like the Convention that it seeks to replace, the proposed Regulation fills a gap in the application of the 1968 Brussels Convention, Article 1 of which expressly excludes matters relating to the law of persons. The Regulation seeks to: - introduce uniform modern standards for jurisdiction on annulment, divorce and separation and to facilitate the rapid and automatic recognition among Member States of judgments on such matters given in the Member States; - lay down rules of jurisdiction concerning parental responsibility over the children of both spouses on the occasion of such proceedings and therefore simplify the formalities governing the rapid and automatic recognition and enforcement of the relevant judgments. The grounds for determining the jurisdiction of a State·s courts to rule on matrimonial matters coming within the scope of the regulation are based on the principle that there is a genuine connection between the person and a Member State : jurisdiction lies with the courts of the Member State in whose territory one of the spouses is resident or in that of the nationality of the two spouses. The courts of a Member State shall have jurisdiction in a matter relating to parental responsibility over a child of both spouses where the child is habitually resident in that Member State. In the event of the abduction of a child by one of the spouses, the lawful habitual residence is safeguarded as the ground of jurisdiction where, as a result of wrongful removal or retention, there has in fact been a change in habitual residence. The Regulation does not affect issues such as, for example, fault of the spouses, property consequences of the marriage, the maintenance obligation or other possible accessory measures. It should be noted that the rules governing jurisdiction are direct; in other words, the rules must be respected by the court of origin in front of which an action that falls within the scope of the Regulation is brought. Such provisions do not, however,affect the distribution of territorial jurisdiction within each State or the situations of States the legal systems of which have not been unified. Lastly, the proposed Regulation, like the Convention it seeks to replace, allows for specific schemes.