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

1997/0918(CNS) - 30/04/1998 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mr Josep VERDE I ALDEA (PSE, E), the European Parliament approved, with certain amendments, the draft Convention on jurisdiction, recognition and enforcement of judgements in matrimonial matters. It firstly recalled that it was essential to protect the fundamental interests of children, in conformity in particular with the Hague Convention of 1980 on the Civil Aspects of International Child Abduction. Parliament considered it important to guarantee respect for the principle of non-discrimination on grounds of nationality, and that compliance with this principle should be monitored by the Court of Justice. It excluded from the scope of the Convention proceedings relating to the status and legal capacity of natural persons, matrimonial property and financial obligations between the spouses or between the latter and their children. However, it considered that the Convention should apply to civil proceedings relating to divorce, legal separation and marriage annulment, irrespective of the nationality of the spouses. Parental responsibility included the right to custody of the children and visiting rights. The matters relating to parental responsibility included the exercise and the total or partial withdrawal of parental responsibility, as well as any measures adopted by the public authorities in relation to the minor concerned. When a Member State was required to recognize a divorce pursuant to the provisions of this Convention, it could not prohibit either of the spouses from contracting a new marriage on the grounds that the national law of a third country, of which the spouses were nationals, did not recognize that divorce. As regards languages, courts must show the requisite flexibility with regard to the translation of documents, and must deliver their judgments in the language prescribed by the Member State in which they sit.