Basic information

2000/0818(CNS) CNS - Consultation procedure Regulation	Procedure completed
Judicial cooperation: rights of access to children, mutual enforcement of judgments. Initiative France Repealed by 2016/0190(CNS) **Subject** 4.10.03 Child protection, children's rights 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	BANOTTI Mary Elizabeth (PPE-DE)	29/08/2000
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Justice and Home Affairs (JHA)	2314	2000-11-30

Key events

Date	Event	Reference	Summary
03/07/2000	Legislative proposal published	09735/2000	Summary
04/09/2000	Committee referral announced in Parliament		
23/10/2000	Vote in committee		Summary
23/10/2000	Committee report tabled for plenary, 1st reading/single reading	A5-0311/2000	
17/11/2000	Decision by Parliament	T5-0527/2000	Summary
17/11/2000	Debate in Parliament		
30/11/2000	Debate in Council		Summary
23/12/2003	Act adopted by Council after consultation of Parliament		
23/12/2003	End of procedure in Parliament		
23/12/2003	Final act published in Official Journal		

Technical information

Procedure reference	2000/0818(CNS)

Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealed by 2016/0190(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 067-p1 EC Treaty (after Amsterdam) EC 061
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/13531

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0311/2000 OJ C 223 08.08.2001, p. 0005	23/10/2000	
Text adopted by Parliament, 1st reading/single reading		T5-0527/2000 OJ C 223 08.08.2001, p. 0353-0373	17/11/2000	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	09735/2000 OJ C 234 15.08.2000, p. 0007	03/07/2000	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1219/2000 OJ C 014 16.01.2001, p. 0082	19/10/2000	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2003/2201
OJ L 338 23.12.2003, p. 0001-0029 Summary

Corrigendum to final act 32003R2201R(08)
OJ L 082 22.03.2013, p. 0063

Corrigendum to final act 32003R2201R(15)
OJ L 297 04.11.2016, p. 0025

Judicial cooperation: rights of access to children, mutual enforcement of judgments. Initiative France

2000/0818(CNS) - 30/11/2000

The Council held an in-depth discussion on questions of mutual enforcement as regards rights of access to children. The draft under consideration provides for a Regulation which excludes any checks by the courts in the requested State, in the case of judgments on the exercise of rights of access to the children of divorced or separated parents. During the debate, some delegations asked that the scope of the draft should be widened to cover all children for whom rights of access are exercised. At the end of this policy debate, the Council noted the Presidency's intention to present a new draft Regulation on the subject in the light of the positions taken by the delegations. It also outlined the strong feeling that the Council's deliberations should cover, simultaneously and in parallel: · the French initiative, which would be limited to judgments concerning the joint children of the spouses handed down at the time of divorce or separation in accordance with the Brussels II Regulation; · work on drawing up an instrument to cover all the children for whom rights of access exist and who are not covered by the instrument proposed by France.

Judicial cooperation: rights of access to children, mutual enforcement of judgments. Initiative France

2000/0818(CNS) - 17/11/2000 - Text adopted by Parliament, 1st reading/single reading

The Parliament voted unanimously to endorse the resolution drafted by Mrs Mary BANOTTI (EPP/ED, Ireland) that seeks to enforce the rights of access of parents to children, as a step towards ensuring the fundamental right of children to maintian contact with their parents'. A series of amendments were adopted which mirror the amendments tabled by the committee reponsible. (Please refer to the previous step in the legislative process).

Judicial cooperation: rights of access to children, mutual enforcement of judgments. Initiative France

2000/0818(CNS) - 03/07/2000 - Legislative proposal

PURPOSE : to present an initiative of the French Republic on the mutual enforcement of judgments on rights of access to children. CONTENT : The Tampere European Council of October 1999 highlighted the need to establish a genuine European judicial area in which judgments relating to the rights of access in the case of children of separated or divorced couples would be directly enforceable in the Member States. This Regulation applies to any judgment given in a Member State in proceedings under the Brussels II Regulation granting rights of access to one parent to a child: -when these rights are to be exercised in the territory of a Member State other than that of the authorities that granted them and; -the child is under the age of 16 when the enforcement of the judgment is sought. In addition, there are provisions in the Regulation for the following: -a single procedure enabling suspension of enforcement in exceptional circumstances where it would risk the child's interests or where there is another irreconcilable judgment. -provisions to safeguard the rights of the parent with custody, so that the authorities of the Member State where the child is staying has powers to enforce the child's return. -the establishment of close cooperation between the central bodies responsible for implementing mutual administration and judicial assistance. These bodies are listed in an annex to the Regulation, and must be accessible to the parents concerned. The central bodies are to exchange information and use any means at their disposal under the internal law of their States to encourage voluntary exercise of rights of access or to guarantee enforcement of those rights through coercive means. -the United Kingdom, Ireland and Denmark are not bound by this Regulation.

Judicial cooperation: rights of access to children, mutual enforcement of judgments. Initiative France

2000/0818(CNS) - 27/11/2003

PURPOSE : to establish rules on the mutual enforcement of judgments on rights of access to children. LEGISLATIVE ACT : Council Regulation 2201 /2003/EC concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000/EC. CONTENT : this Regulation covers all decisions on parental responsibility, including measures for the protection of the child, independently of any link with a matrimonial proceeding. Since the application of the rules on parental responsibility often arises in the context of matrimonial proceedings, there is a single instrument for matters of divorce and parental responsibility. The scope of the Regulation covers civil matters, whatever the nature of the court or tribunal. The main points are as follows: - The grounds of jurisdiction in matters of parental responsibility established in this Regulation are shaped in the light of the best interests of the child, in particular on the criterion of proximity. This means that jurisdiction will 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. In the interest of the child, this Regulation allows, by way

of exception and under certain conditions, that the court having jurisdiction may transfer a case to a court of another Member State if this court is better placed to hear the case. However, in this case the second court should not be allowed to transfer the case to a third court. - The Regulation does not prevent the courts of a Member State from taking provisional, including protective measures, in urgent cases, with regard to persons or property situated in that State. - In cases of wrongful removal or retention of a child, the return of the child must be obtained without delay, and to this end the Hague Convention of 25 October 1980 would continue to apply as complemented by the provisions of this Regulation. The courts of the Member State to which the child has been wrongfully removed or retained will be able to oppose his return in specific, duly justified cases. However, such a decision may be replaced by a subsequent decision by the court of the Member State of habitual residence of the child prior to the wrongful removal or retention. Should that judgment entail the return of the child, the return must take place without any special procedure being required for recognition and enforcement of that judgment in the Member State to or in which the child has been removed or retained. - Where a court has decided not to return a child on the basis of Article 13 of the 1980 Hague Convention, it must inform the court having jurisdiction in the Member State where the child was habitually resident prior to the wrongful removal. Unless the court in the latter Member State has been seised, this court should notify the parties. This obligation should not prevent the central authority from also notifying the relevant public authorities in accordance with national law. - The hearing of the child plays an important role, although this Regulation is not intended to modify national procedures applicable. The hearing of a child in another Member State may take place under the arrangements laid down in Council Regulation1206/2001/EC. - The recognition and enforcement of judgments 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. - The Tampere European Council considered in its conclusions that judgments in the field of family litigation should be "automatically recognised throughout the Union without any intermediate proceedings or grounds for refusal of enforcement". This is why judgments on rights of access and judgments on return that have been certified in the Member State of origin in accordance with the provisions of the Regulation must be recognised and enforceable in all other Member States without any further procedure being required. Arrangements for the enforcement of such judgments continue to be governed by national law. - The certificate issued to facilitate enforcement of the judgment is not subject to appeal. It may be rectified only where there is a material error, i.e. where it does not correctly reflect the judgment. - The United Kingdom and Ireland will take part in the adoption and application of the Regulation. - Denmark is not participating in the adoption of the Regulation and is therefore not bound by it not subject to its application. ENTRY INTO FORCE : 1 August 2004. DATE OF APPLICATION: The Regulation shall apply from 1 March 2005, with the exception of Articles 67, 68, 69 and 70, which shall apply from 1 August 2004. The latter articles relate to comitolgy and to information on central authorities and languages accepted as well as information relating to courts and redress procedures.