Basic information

2001/0204(CNS) CNS - Consultation procedure Regulation	Procedure lapsed or withdrawn
Civil judicial cooperation: parental responsibility, recognition and enforcement of judgments **Subject** 4.10.02 Family policy, family law, parental leave 4.10.03 Child protection, children's rights 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

Council of the European Union	
European Commission	Commission DG: Justice and Consumers Commissioner:

Key events

Date	Event	Reference	Summary
06/09/2001	Legislative proposal published	COM(2001)0505	Summary
04/10/2001	Committee referral announced in Parliament		

Technical information

Procedure reference	2001/0204(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 067-p1 EC Treaty (after Amsterdam) EC 061
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	LIBE/5/15158

Documentation gateway

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2001)0166	27/03/2001	Summary

Legislative proposal	COM(2001)0505 OJ C 332 27.11.2001, p. 0269 E	06/09/2001	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0029/2002 OJ C 080 03.04.2002, p. 0041	16/01/2002	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Civil judicial cooperation: parental responsibility, recognition and enforcement of judgments

2001/0204(CNS) - 27/03/2001 - Document attached to the procedure

This working document aims at structuring further discussion in view of presenting a Commission proposal for a regulation on parental responsibility. The Commission is fully conscious of the need accelerate work in this direction, which was considered by Justice and Home Affairs Council of 30 November 2000 as a prerequisite for the French initiative on rights of access. In the light of the Council's mandate for the equal treatment of children, the Commission considers that the scope of the Brussels II Regulation should now be extended to encompass all decisions on parental responsibility. As regards jurisidiction, this working document opens the debate as to whether a simple rules based on the child's habitual residence would be adequate for this purpose. This work is situated in the framework of the programme of mutual recognition, whose final objecive is the abolition of the exequatur in the civil and commercial law area. The extension of the scope of the Brussels II Regulation figures in the first stage of measures in the family area, together with the abolition of the exequatur in limited fields currently under way (the other targeting the area of uncontested claims in the commercial ("Brussels I") law area as dicussed in the informal Justice and Home Affairs Council meeting on 8 February 2001). However laudable the objective of abolishing exequatur within the Community, issues of parental responsibility often transcend the boundaries of the EC and solutions must therefore be sought at international level. The issue of a possible Community accession to the 1996 Hague Convention on parental responsibility must be addressed in parallel to elaborating Community legislation. To the same end, a dialogue with countries which do not participate in the Hague framework must be sought in other regional fora, for instance as part of the Barcelona process with our Mediterranean partners. A coherent Community framework within the EU can only move this international dialogue forward.

Civil judicial cooperation: parental responsibility, recognition and enforcement of judgments

2001/0204(CNS) - 06/09/2001 - Legislative proposal

PURPOSE: To establish a clear and coherent set of rules relating to jurisdiction and the recognition and enforcement of judgments in matters of parental responsibility. CONTENT: Harmonised rules on the enforcement of judgments in matters of parental responsibility are deemed necessary as people increasingly move from one Member State to another. Given that some families break up and are recomposed, children need a secure legal environment for maintaining relations with persons who have parental responsibility over them and who may now live in a different Member State. This social trend has led some parents to become increasingly reluctant to send their child/ren abroad. For example, parents who have been given custody of a child, in say the UK, are sometimes fearful of sending their child to visit their father/mother another Member State for fear that they might not be returned. As a consequence the Justice and Home Affairs Council, which met in November 2000 adopted a programme for the progressive abolition of exequatur in four areas of work. This proposal is based on area 2 of the programme. Community initiatives in this field is fully in line with Article 5 of the EC Treaty which establishes the principle of subsidiarity. The legal basis for the proposal rests on Articles 61(c) and 67(1), according to which the Community has the option of adopting measures in the field of judicial cooperation in civil matters having cross-border implications and in so far as necessary for the proper functioning of the internal market. Council Regulation (EC) No 1347/2000 is, to date, the most established of EU legislation in the field of family law. It sets out rules on jurisdiction, automatic recognition and simplified enforcement of certain judgments issued at the time of divorce or separation. As regards decisions on parental responsibility, its scope is limited to judgments on parental responsibility for the children of both spouses rendered on the occasion of the matrimonial proceedings. In line with the wish to establish clear rules on the recognition and enforcement of judgments in matters of parental responsibility, the French government proposed that the Community adopt a two fold strategy. Firstly, to extend the scope of Regulation 1347/2000 and secondly to abolish exequatur for rights of access. In accordance with this concept and following a public hearing

with interested parties, this proposal is, in effect extending Regulation 1347/2000 by improving the free circulation of all decisions on parental responsibility based on a set of common rules on jurisdiction that must be laid down at Community level and which reinforces cooperation between authorities. The ultimate objective is the abolition of exequatur before a decision taken in one Member State can be enforced in another Member State. The Commission is of the opinion that this proposal reflects the Communities objective of protecting the child's best interests, and in particular to give concrete expression to his or her fundamental right to maintain on a regular basis a personal relationship and direct contact with both parents.