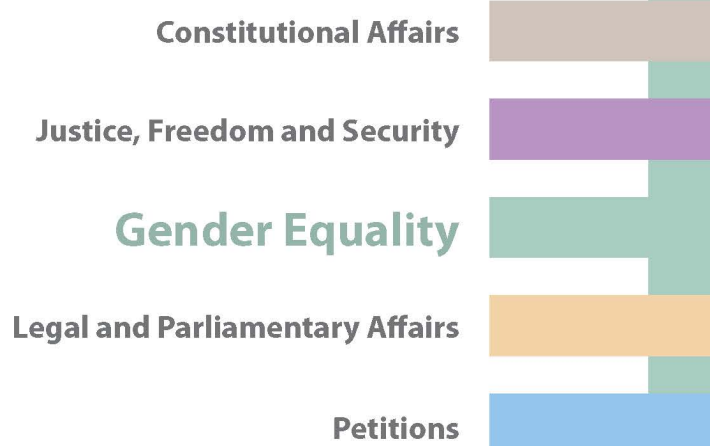


DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Child maintenance systems in EU Member States from a gender perspective

In-depth analysis for the FEMM Committee





DIRECTORATE GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

GENDER EQUALITY

Child maintenance systems in EU Member States from a gender perspective

IN-DEPTH ANALYSIS

Abstract

Upon request by the FEMM Committee, this note gives an overview of the legislation and legal principles in the Member States concerning the guarantee of payment of child maintenance for the custodial parent by the other parent in case of separation or divorce. This guarantee can be regulated by law and can be put in place by a special body or agency. This note pays particular attention to differences between men and women in their roles for the financial support of children.

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EXECUTIVE SUMMARY

Background

Overall in Europe, marriage rates are declining, yet divorce rates are rising. As a consequence, the amount of single parent and recomposed families is increasing. The percentage of families which are single parent can be broken down by EU Member State. It is high in Nordic and Baltic countries, as well as in the UK and Ireland, but low in Southern Europe. The average rate of single parent families within the EU 27 stands at around 14%. A similar rate is found in Austria, the Czech Republic, Finland, France and Germany.

Single parents are more often single mothers, rather than fathers. Mothers are more likely to take custody of the child after separation or divorce. The fact that the majority of single parent families are headed by the mother implies that fathers are most often responsible for the payment of child support, as the non-custodial parent. This means that in case of non-payment by the non-custodial parent, it is most often single mothers who have to deal with enforcement procedures and ask for advances and aid from the State where child support and social benefit is guaranteed.

In straightforward terms, child maintenance may be defined as 'a regular contribution from a non-resident parent towards the financial cost of raising a child, usually paid to the parent with whom the child lives most of the time'¹. There are two reasons why the non-custodial parent should financially contribute to the wellbeing of the child. Firstly, in all EU countries, both parents have the legal obligation to financially support their child at least until his or her majority. Secondly, experience shows that the custodial parent, who is responsible for the child on a daily basis, should be assisted.

Single parents face a higher poverty risk after losing one of the family incomes due to separation or divorce. This is also the reason why child maintenance is necessary. As a matter of fact, child poverty can be reduced by ensuring payment of child maintenance by the non-custodial parent. Child maintenance payment can also be a means for the non-custodial parent to maintain contact with the child.

Aim and Structure

The aim of this briefing note is to give an overview of the different legal systems existing in the EU countries concerning child maintenance payment by the non-custodial parent after separation or divorce with particular attention to differences between men and women in the financial support of their children.

It is necessary to compare the situation of single parents in EU Member States in order to understand the different systems guaranteeing child maintenance payment when the non-custodial parent cannot or refuses to pay.

The first part of the briefing note gives an overview of family structures in EU countries, including single parent families. The second part explains the issues linked to child maintenance. The third part deals with different systems and rules concerning child maintenance, and the fourth part presents how EU Member States' judiciaries cooperate in the field of child maintenance.

¹ HAKOVIRTA, M., 'Child Maintenance and Child Poverty: A Comparative Analysis', Journal of Poverty and Social Justice, Volume 19, Number 3, October 2011.

Key Findings

Most EU countries have legislation defining and framing rules concerning child maintenance. The payment of child support by the non-custodial parent is a legal obligation. Lack of financial contribution from the non-custodial parent is therefore often punishable by law.

Back in 1994, only 43% of European single parents received child maintenance payments. In 2000, the figure was still less than 50%, but by 2004², the proportion of single parents receiving child maintenance had increased to 64%. This rise in payment rates could be linked to the introduction of legal processes to enforce the payment of child maintenance.

National responses to the non-payment of child maintenance by the non-custodial parent are fixed in the legislation of each country. This can range from enforced payment, salary deductions, seizure of assets and bank accounts and, in some countries, imprisonment.

When these legal provisions do not result in a satisfactory resolution, child support can be guaranteed in some countries by the State (in Austria, Estonia, Germany, Hungary, Italy and Sweden); by local authorities (in Czech Republic, Denmark and Finland); by special funds (in Latvia, Lithuania, Luxembourg, Poland and Portugal); or by a special administrative agency (in the Netherlands and the UK). In the other EU countries, child maintenance can be guaranteed by private agencies or insurance companies in certain cases. In most cases, child maintenance is advanced by the appointed body only after exhaustion of legal remedies, such as enforcing payment, sending a bailiff, and seizing and selling of assets.

Even if civil matters such as child maintenance are included in the competencies of the Member States and not in the competencies of the EU, the European legal framework organises judicial cooperation between EU countries in instances where there is disagreement between the custodial parent and the non-custodial parent regarding child maintenance. Numerous EU regulations and conventions have accepted the principle of mutual recognition of judicial decisions and judicial cooperation between the Member States in this field.

² Unfortunately, these are the most recent figures available.

INTRODUCTION

The present note deals with child maintenance (or child support), as well as its functioning and guarantee in the EU Member States with particular interest in the different roles of men and women for the financial support of their children. Child maintenance is paid to the custodial parent (parent with whom the child lives most of the time) by the non-custodial parent and is expected to be used for the child's fundamental expenses such as educational needs, food and clothing. Child maintenance is an obligation in most of the EU countries and concerns all kinds of family patterns in which there is a child: divorced couples after a marriage and separated couples on the condition that the father has recognized the child.

In cases of a divorce, custody of the child can be 1) full in cases of abuse or violence from one of the parents; 2) shared when the child is taken care of by both parents equally and in this case, even if both parents are custodial parents, the parent with the highest income may have to pay child maintenance to the other parent; or 3) when one of the parents has custody of the child on an everyday basis and the other parent has less frequent contact with the child. The custodial parent then becomes a single mother or father.

It is to be noted that most EU countries make no distinction between children born in wedlock or out of wedlock, and rules applying to the right for the child (or his/her guardian) to receive child maintenance are the same, except in Germany and in Cyprus.

In most of the EU Member States, the amount of child maintenance is fixed in the first instance by the parents, and in case of disagreement or conflict, by a judicial decision on the amount to be provided by the non-custodial parent. As the payment of child maintenance is mandatory, the failure to pay invokes civil or criminal legal proceedings in all EU countries.

It is to be noted that child maintenance is different from alimonies, which are payments made by the ex-partner to the other after a divorce and a judicial decision. It is also to be noted that child maintenance is different from child benefits, which are social security payments made by the State to contribute to the fundamental needs of the child, teenager, and sometimes young adult. These payments are usually calculated depending on the number of children in the family and sometimes on the income of the parents.

1. PARTNERSHIP PATTERNS IN EU MEMBER STATES

1.1. Marriage, divorce and single-parent family rates

As stated in a recent OECD report³, overall in Europe, marriage rates are declining while divorce rates are rising. In fact, the OECD estimates that among its member states there were about 8 marriages per 1000 people in 1970, and this amount had fallen to 5 marriages per 1000 people in 2009. Moreover, it appears that divorce rates doubled in the same period of time. Nowadays, less people are getting married and these marriages are more likely to end up in divorce, in comparison to figures of thirty years ago.

The increase in divorce rates led to an expansion in the number of single-parent families and recomposed families (where parents have children from previous marriages or relationships), and these rates vary between EU countries. For example, high divorce rates are observed in the Czech Republic and Belgium, and low divorce rates can be noted in Italy. Table 1 shows how households with children are composed. It can be observed that the percentage of families composed of married parents is highest in Southern Europe (Cyprus, Greece, Italy, Spain) and two countries from the South-East of Europe (Romania and Slovakia).

The lowest marriage rates can be observed in Sweden, Latvia and Estonia. The figures reflect the fact that, even if marriages are declining, the notion of a nuclear family still exists, as couples are often cohabiting and have children outside of marriage. In the three countries just mentioned, families in which parents cohabit without being married reach the figures observed in the countries in which marriage rates are the highest. As a matter of fact, in Sweden, the percentage of families with married parents combined with the percentage of families with cohabiting parents is only 2.2% less than the percentage of families with married parents in Spain. The figures are comparable for France and Slovenia, for which the percentage of marriage rates combined with cohabitation rates are among the highest in the EU-27.

Family models are also changing between the generations. It is observed in the OECD report that most families in which couples are cohabiting without being married belong to the youngest generation (20-34 years old). The previous generation was more likely to be married at the same age. The cohabitation rates are the highest in Sweden, France and Estonia and the lowest in Cyprus, Greece and the Slovakia.

The report also explains the decrease in marriage rates by the fact that traditional family patterns are more and more replaced by non-traditional family patterns, such as 'living apart together' or 'weekend relationships'.

Tables 1 and 2 below give an overview of partnership patterns in the EU countries in 2007 and 2008 showing a slight evolution. We can see that in all countries except Cyprus, Greece and Portugal, figures of lone-parent families are decreasing.

³ OECD, 'Families are Changing: Doing Better for Families', 2011.

Table 1: Partnership patterns in the EU-27 in 2007⁴

Country	Percentage of children living with:			
	Two parents, married	Two parents, cohabiting	One parent	Without parents
EU25	73.8	11.0	14.1	1.2
Austria	76.1	7.4	14.3	2.2
Belgium	67.7	13.7	16.2	2.5
Bulgaria	-	-	-	-
Cyprus	91.5	0.6	7.2	0.7
Czech Republic	76.3	8.2	14.9	0.6
Denmark	65.6	15.1	17.9	1.5
Estonia	52.5	23.9	21.8	1.9
Finland	68.9	15.8	14.4	0.9
France	64.5	21.0	13.5	0.9
Germany	78.2	5.5	15.0	1.3
Greece	92.3	1.2	5.3	1.2
Hungary	73.9	9.9	15.4	0.8
Ireland	67.9	5.9	24.3	1.9
Italy	83.9	5.2	10.2	0.8
Latvia	55.5	14.1	27.1	3.3
Lithuania	73.8	6.1	18.1	2.0
Luxembourg	82.6	6.9	10.2	0.3
Malta	-	-	-	-
Netherlands	75.5	13.1	11.1	0.3
Poland	79.0	9.2	11.0	0.8
Portugal	75.5	9.7	11.9	2.9
Romania	-	-	-	-
Slovakia	84.7	3.7	10.6	1.1
Slovenia	69.4	19.5	10.4	0.6
Spain	83.7	7.9	7.2	1.2
Sweden	50.6	30.5	17.6	1.3
UK	64.5	12.6	21.5	1.4

⁴ IAKOVOU, M., SKEW, A., 'Household structure in the EU', Iser Working Paper Series, No. 2010-10, April 2010, Institute for Social and Economic Research.

Table 2: Partnership patterns in the EU-27 in 2008⁵

Country	Percentage of children (under 18 years old) living with:			
	Two parents, married	Two parents, cohabiting	One parent	Without parents
EU 27	73.8	11.5	13.6	1.2
Austria	74.4	10.6	12.9	2.1
Belgium	67.2	15.1	15.3	2.4
Bulgaria	66.9	15.6	14.4	3.2
Cyprus	89.0	0.8	9.3	1.0
Czech Republic	74.6	9.8	14.9	0.7
Denmark	66.9	14.0	17.8	1.2
Estonia	54.0	22.9	21.4	1.7
Finland	69.2	16.4	13.4	1.0
France*	64.5	21.0	13.5	0.9
Germany	77.5	6.6	15.1	0.8
Greece	91.8	2.1	4.8	1.3
Hungary	71.3	12.2	15.4	1.1
Ireland	67.8	7.4	23.2	1.6
Italy	82.1	6.3	10.8	0.8
Latvia	58.9	14.5	23.3	3.4
Lithuania	74.1	5.2	17.6	3.1
Luxembourg	81.9	8.0	9.9	0.2
Malta	-	-	-	-
Netherlands	74.2	13.9	11.5	0.4
Poland	77.9	10.6	10.8	0.8
Portugal	74.6	11.0	12.3	2.1
Romania	84.1	7.0	6.5	2.5
Slovakia	84.9	4.3	10.1	0.7
Slovenia	69.6	19.8	10.0	0.6
Spain	83.9	7.8	7.1	1.2
Sweden	54.4	27.3	17.0	1.3
United Kingdom	65.1	12.8	20.8	1.3

⁵ EUROSTAT, 'News Release: Living arrangements in the EU27', STAT/11/156, 27 October 2011.

1.2. Single-parent families

1.2.1. Geographical distribution

Single parenthood can be defined as a situation in which a child is raised by only one parent or one parent at a time. Single parenthood can occur after separation, divorce, or death of one of the parents. In cases of divorce or separation, the custody of the child can be full (in cases of abuse or violence from one of the parents), shared (the child is taken care of by both parents equally) or part (one of the parent has the custody of the child on an everyday basis and the other parent has less frequent contact with the child). The custodial parent then becomes single mother or father. This note will look at single parenthood as a result of divorce or separation.

According to the report 'Comparison of Child Support packages in 22 countries'⁶, the concept of single-parent families varies between countries. In the Netherlands, single mothers may also be those cohabitating with a man who is not the father of the child. In Southern EU countries, many single parents move back to their parents' or are living with relatives in multi-generational households so it can be difficult to identify and localize them.

Marriage is the most common living arrangement in the European Union. Figures show that in 2008, 85% of the children lived with two married or cohabitating parents. However, single-parent families are becoming an increasingly common family pattern in the EU.

Figures (see Table 1) show that the highest rate of single-parent families are found in the Baltic countries (on average 20% of the families are single-parent), in Ireland and the UK, also around 20%, and in Scandinavia (just over 17% of the families).

In the UK, a recent newspaper article stated that in five major conurbations (London, Liverpool, Manchester, Birmingham and Leeds), there are more single-parent households than two-parent families. In the constituency of Lewisham Deptford, '58% of the households with children are headed by single parents'.⁷

Lower rates of single-parent families can be found in the Southern countries of Europe, which are still influenced by Orthodox or Catholic Christian traditions (Spain, Greece, Cyprus and Italy, where the percentage of single-parent families represents 10% or less of all family structures). The average percentage of lone-parent families among the EU 27 stands at around 14%, such as in Austria, the Czech Republic, Finland, France and Germany.

The report 'Child Well-Being and Sole-Parent Family Structure in the OECD: an analysis' shows that about one third of children born in the early nineties in Austria, Germany, France, Sweden and the Czech Republic have spent a part of their childhood outside an intact family structure⁸.

⁶ BRADSHAW, J., FINCH, N., 'A Comparison of Child Benefit Packages in 22 countries', Research Report No 174, Department of Work and Pensions, 2002.

⁷ MARTIN, D., 'Single-parent families so common in today's Britain, that couples are now in minority', Daily Mail, 3 August 2012.

⁸ OECD, 'Child well-being and sole-parent family structure in the OECD: an analysis', Social, Employment and Migration Working Papers no. 82, DELSA/ELSA/WD/SEM(2009)10, 23 March 2009.

Figures of the OECD show that in the EU, the proportion of single-parent families has increased from 12% to 17% between 1994 and 2004⁹. The OECD report 'Families are changing' confirms the constant increase of lone-parent families, predicting an increase of between 22% and 29% by 2025-2030. The report adds that Austria and the Netherlands are the countries which are likely to see the lowest increase in single-parent families (8-10%) and that the UK is the country which is likely to experience the largest increase, at around 60%. Furthermore, projections have shown that Germany is the only country where the number of single-parent families is likely to decrease, with a drop of 16% foreseen by 2025.

Table 3 below shows the evolution of single-parent families' numbers between 2000 and 2003, with the percentage of mothers or fathers who do not live with the child on an everyday basis. It appears that within those three years, the number of single-mothers has increased by 1% in Germany and Poland; around 10% in France, Ireland, Portugal and Spain, 14% in the UK and up to 21% in Greece. Thus this increase varies highly across EU Member States. The average of the 18 countries for which data was available is around 7.1%, which is the same average for Belgium, Denmark, Luxembourg and the Netherlands.

Table 3: Percentage of children aged 15 whose parents don't live at home on an everyday basis¹⁰

Country	Father doesn't normally live at home		Mother doesn't normally live at home	
	2000	2003	2000	2003
Austria	17	21	3	4
Belgium	16	23	4	6
Czech Republic	17	23	3	3
Denmark	21	28	7	7
Finland	21	25	6	5
France	16	26	4	6
Germany	20	21	4	4
Greece	5	26	2	7
Hungary	21	25	5	5
Ireland	7	17	2	4
Italy	15	18	5	5
Luxembourg	14	22	4	6
the Netherlands	12	18	3	4
Poland	12	13	2	2
Portugal	11	20	4	6
Slovakia	-	15	-	3
Spain	13	17	4	3
Sweden	18	27	4	8
United Kingdom	16	30	3	7

⁹ OECD, 'PF1.5: Child Support', OECD Family database, Social Policy Division - Directorate of Employment, Labour and Social Affairs, 7 October 2010.

¹⁰ OECD, 2009, Op. Cit.

Table 4 shows the reasons of single-parenthood observed at the turn of the millennium. It should be noted that in all the countries examined, the main reason for single-parenthood is divorce, except in the UK and Ireland, in which there are more separated parents who were never married than divorced parents.

Table 4: Reasons for single parenthood¹¹

Country	Year	Single	Separated	Divorced	Widowed
Austria	1999	26	8	34	32
Belgium	1997	16	29	39	14
Denmark	-	-	-	-	-
Finland	1999	34	13	48	5
France	-	-	-	-	-
Germany	1999	27	13	39	22
Greece	-	-	-	-	-
Ireland	1999	63	29	2	6
Italy	1998	7	-	31	63
Luxembourg	2000	22	23	34	22
the Netherlands	2001	33	11	51	6
Portugal	1996	13	19	31	30
Spain	1999	12	4	57	27
Sweden	-	-	-	-	-
United Kingdom	2001	46	20	29	4

1.2.2. Gender aspects of single-parenthood

Single parents are often single mothers, as mothers are more likely to have the custody of the child after a separation or a divorce. However, the proportion of single fathers varies by country.

In 2009, Eurostat counted just over 200 million private households, of which just over one million households were headed by single fathers. This represents 0.5% of all the European households.¹²

¹¹ Ibid.

¹² EUROSTAT, 'Communiqué de presse: Les Femmes et les Hommes dans l'UE vus à travers les chiffres', 36/2011, 4 mars 2011.

Table 5: Gender aspects of single-parent families: proportion of single fathers/single mothers¹³

Country	Number of households (000s)	Single mothers (%)	Single fathers (%)
EU 27	200 534	3.7	0.5
Austria	3 598	2.8	0.3
Belgium	4 568	5.3	0.8
Bulgaria	2 901	2.3	0.5
Croatia	1 639	1.8	0.2
Cyprus	275	2.6	0.2
Czech Republic	4 366	4.5	0.5
Denmark	-	-	-
Estonia	549	7.0	0.9
Finland	2 482	1.5	0.2
France	27 393	4.7	0.8
Germany	39 311	3.5	0.4
Greece	4 318	1.5	0.2
Hungary	3 791	3.4	0.4
Ireland	1 487	5.9	0.5
Italy	24 610	2.0	0.3
Latvia	863	5.6	0.6
Lithuania	1 393	5.5	1.0
Luxembourg	202	4.2	0.9
Malta	142	1.9	0.4
The Netherlands	7 270	3.7	0.7
Poland	13 319	3.3	0.3
Portugal	3 926	3.2	0.3
Romania	7 396	1.7	0.3
Slovakia	1 757	2.7	0.2
Slovenia	791	2.9	0.4
Spain	17 076	2.3	0.5
Sweden	-	-	-
United Kingdom	26 753	6.7	0.7

¹³ Ibid.

The fact that the majority of single-parent families are headed by the mother implies that more fathers must pay child support as the non-custodial parent. This also means that in case of non-payment by the non-custodial parent, it is more often single mothers who have to deal with procedures of enforcement and ask for advances from the State where child maintenance and child support are guaranteed.

Moreover, single mothers can thus be considered as a category of society which is likely to be discriminated against and put in a difficult situation in case of a divorce or separation, especially if they are not financially independent. As women, they are likely to have a lower income because of the existing gender pay gap in EU Member States, which could have a knock-on effect on access to childcare. Their caring duties could in turn make it more difficult for them to reconcile work and family life. In some countries, however, there are companies that offer special arrangements for single mothers, as will be described in the next section.

1.3. Recommendations from the European Parliament

In a motion for a resolution (2011/2049[INI]), the European Parliament made recommendations regarding the situation of single mothers¹⁴.

It reaffirmed its support to single-parent families; asked the Member States to evaluate the needs of single mothers and to exchange examples of good practice in order to improve their situation, and flagged up the need to find solutions so as to avoid poverty and social exclusion for single mothers. Furthermore, the European Parliament reaffirmed its support for training courses, financial support and housing assistance for single mothers to allow them to have financial independence while raising their child.

The European Parliament underlined the need to respect the principle of equality of treatment between all children, the need to eliminate all kinds of discrimination against single mothers and their children; and the need to improve the participation of fathers by encouraging the system of shared custody.

¹⁴ European Parliament, 'Report on the Situation of Single Mothers', Committee on Women's Rights and Gender Equality, 2011/2049 (INI), 29 September 2011.

2. ISSUES SURROUNDING CHILD MAINTENANCE PAYMENTS

2.1. Overview

As stated previously, child maintenance may be considered as 'a regular contribution from a non-resident parent towards the financial cost of raising a child, usually paid to the parent with whom the child lives most of the time'¹⁵.

The custodial parent takes care of the child on an everyday basis, with all the responsibilities such care implies (health, security, school, as well as cultural and sporting extra-curricular activities, etc.), while the non-custodial parent has no contact with the child on an everyday basis. The contact between the child and the non-custodial parent is more or less frequent, depending on judicial decision made regarding the custody and if shared custody has been decided.

The justification for enforcing child maintenance payment is twofold; on the one hand, there is a moral responsibility on the non-custodial parent to reimburse not only the pecuniary costs to the custodial parents (such as food and lodging), but also the non-pecuniary cost (such as the disproportionate impact the greater childcare responsibilities may have on the custodial parent's career). Moreover, in addition to this, there is a legal responsibility; in all EU Member States, both parents have the obligation to financially support their child at least until his or her majority.

Most EU Member States have legislation defining and framing the rules concerning child maintenance, making payment of child support by the non-custodial parent a legal obligation. However, this principle is applied in different ways; in some Member States, such as Scandinavian countries, child maintenance payment is guaranteed by the welfare state as a matter of social policy, whereas in others, such as the UK, it is seen as a private obligation.

It has been noted that the number of divorces is growing in all EU countries and that single parenthood is rising. It has also been observed that single-parent families face a higher risk of poverty and deprivation. Therefore, financial contributions by the non-custodial parent are of crucial importance as they complement the overall income needed to raise a child.¹⁶

2.2. Payment rates in the EU

The proportion of single parents receiving child maintenance is different across the EU. About 22% of single parents in the UK or in the Mediterranean countries receive child maintenance, compared to 100% of those in Sweden. In Sweden, when the non-custodial parent could not pay, the payment of child maintenance is guaranteed by the State. In the UK, though, maintenance payments are seen as a private family matter, so the payment of child maintenance is not guaranteed by the State.¹⁷

Back in 1994, only 43% of the European single parents received child maintenance payments. In 2000, this figure was still less than 50% but by 2004, the proportion of single

¹⁵ HAKOVIRTA, Op. Cit.

¹⁶ OECD, 2010, Op. Cit.

¹⁷ HAKOVIRTA, Op. Cit.

parents receiving child maintenance had increased to 64%, suggesting that payments are more and more regulated. However, in France, Hungary and Ireland, this proportion decreased in the late 1990s.¹⁸

Table 6 below shows the percentage of single parents receiving child maintenance in 1994, 2000 and 2004.

Table 6: Trends in single parenthood and single parents receiving Child maintenance payments in 1994, 2000 and 2004 in selected* countries¹⁹

Country	Percentage of single parents			Percentage of single parents receiving child maintenance		
	1994	2000	2004	1994	2000	2004
Austria	9.9	12.9	-	51.6	69.8	-
Belgium	9.3	11.8	-	47.8	49.1	-
Denmark	13.9	13.7	15.7	99.2	99.2	98.8
Finland	12.7	14.9	13.0	74.2	72.7	83.4
France	10.0	12.6	-	55.9	46.3	-
Germany	8.0	13.9	-	-	30.1	-
Greece	3.4	3.1	-	17.2	24.5	-
Hungary	8.4	5.7	-	47.2	39.8	-
Ireland	10.4	14.4	-	23.7	20.1	-
Italy	3.6	3.7	-	12.3	25.2	-
Luxembourg	10.2	6.3	7.3	32.2	40.1	-
Netherlands	8.6	8.8	-	15.6	24.4	-
Poland	6.8	6.8	-	46.4	72.9	-
Spain	3.7	4.2	-	7.5	12.4	-
Sweden	24.1	21.2	21.9	84.4	92.6	100.0
United Kingdom	21.2	22.9	24.6	20.2	21.9	22.8

*for which data was available

Moreover, it should be borne in mind that the unpaid child maintenance can seldom be recouped; a House of Commons study estimated that 60% of unpaid child maintenance is irrecoverable.²⁰

2.3. Link to child poverty

The consequences of single parenthood are varied, but overall, it has been observed that single-parent families are in a more difficult socio-economic situation than two-parent families.²¹

¹⁸ OECD, 2010, Op. Cit.

¹⁹ Ibid.

²⁰ House of Commons, 'Child Support Agency: Implementation of the Child Support Reforms', Committee of Public Accounts, Thirty seventh report of sessions, 27 June 2007.

Nowadays, the majority of European women participate in the labour market, albeit often on a part-time basis. Most families take home more than one income. As a matter of fact, more than 50% of women now work full-time across the EU (except in Greece, Malta and Italy) and the average employment rate for women was 62.3% in 2011.²² After separation or divorce, one of the family earners is removed and so it stands to reason that single-parent families are likely to receive a lower income than two-parent families. This accounts for why single parents face a much higher poverty risk than two parent families, as shown by Table 7 below. Indeed, research has shown that in the EU25, 32% of single-parent homes were living below the poverty threshold, against 17% of all households with dependent children.²³

Table 7: Poverty rates for children and for families by employment status (percentages)²⁴

Country	Children (0-17)	Sole parent		Two parents		
		not working	working	no worker	one worker	two workers
Austria	6.2	51.3	10.5	36.3	4.5	2.9
Belgium	10.0	43.2	10.1	36.1	10.6	2.5
Czech Republic	10.3	71.4	10.3	43.2	9.5	0.7
Denmark	3.7	33.9	5.1	29.2	7.8	0.6
Estonia	12.4	94.5	29.2	75.4	16.3	3.1
Finland	4.2	46.3	5.6	23.4	8.9	1.1
France	8.0	35.8	14.6	18.1	8.7	3.0
Germany	8.3	46.2	11.6	23.2	3.7	0.6
Greece	13.2	83.6	17.6	39.2	22.1	4.0
Hungary	7.2	30.8	21.3	9.6	6.5	3.1
Ireland	16.3	74.9	24.0	55.4	15.7	1.9
Italy	15.3	87.6	22.8	79.3	22.5	2.7
Luxembourg	12.4	69.0	38.3	27.4	15.8	5.3
the Netherlands	9.6	56.8	23.2	63.1	14.6	1.8
Poland	21.5	74.9	25.6	51.2	28.4	5.7
Portugal	16.6	90.2	26.2	52.2	34.3	4.8
Spain	17.3	78.0	32.2	70.6	23.2	5.1
Slovakia	10.9	65.9	23.9	66.0	18.2	1.8
Slovenia	7.8	72.8	19.6	76.6	22.0	2.1
Sweden	7.0	54.5	11.0	46.0	18.5	1.4
United Kingdom	10.1	39.1	6.7	35.8	9.0	1.0

²¹ OECD, 2010, Op. Cit.

²² European Commission, 'Female Labour Market Participation', 2013.

²³ STEVENS, J., DE BERGEYCK, J, and DE LIEDEKERKE, A.-C., Op. Cit..

²⁴ OECD, 2010, Op. Cit.

Other material assets such as houses can also be lost if they were shared by the parents. The loss of income and assets can oblige the single parent to move into smaller, more affordable housing, and sometimes to places where the living conditions are unsatisfactory. It also can oblige the parent to move to a neighbourhood in which schools are of a lower standard and the children risk having education of a lesser quality²⁵.

The payment of child maintenance by the non-custodial parent may serve to reduce child poverty, as it supplements the income of the custodial parent. On top of this, the payment of child maintenance may facilitate greater contact between the non-custodial parent (most often the father) and his or her child. It can thus be 'an important tool for improving the wellbeing of children after parental separation'.²⁶ This has been repeated by the federal authorities in the US, where the Congressional Research Service recently issued a report underlining the father's influence on the overall well-being of his children while acknowledging that welfare programmes in the US have tended to minimise or under-play the role of fathers in the lives of children.²⁷

²⁵ STEVENS, J., DE BERGEYCK, J, and DE LIEDEKERKE, A.-C., 'Realities of Mothers in Europe', Family Platform, October 2011.

²⁶ HAKOVIRTA, Op. Cit.

²⁷ Congressional Research Service, 'Child Well-Being and Noncustodial Fathers', 12 February 2013.

3. DIFFERENT SYSTEMS OF CHILD MAINTENANCE IN EU MEMBER STATES

3.1. Patterns in administration of child maintenance

By studying the systems in place across the EU, some patterns and important differences in the way child maintenance is administered can be identified.

With the exception of Italy, parents are always involved in setting child maintenance, but this must be ratified by the courts in some instances. In the different Member States, the courts, police and government agencies have either individual or joint jurisdiction over payments, and a variety of different means are available to enforce this, such as court orders, sending bailiffs and seizing and selling of assets. In some circumstances, payments may be advanced by the State if they are not paid by the non-custodial parent.

As shown by table below, in countries in which child maintenance is determined by the courts, child support is often provided by the State in cases when the non-custodial parent fails to pay. However, in some countries, the first to decide on the amount of child maintenance are the parents, and the courts or agencies intervene only in case of a disagreement between the parents. In countries where child maintenance is provided by the State when it is not paid by the non-custodial parent, it is guaranteed by three different systems; courts, agencies, or a combination of both.²⁸

In case of non-payment of child maintenance by the non-custodial parent, child support is guaranteed directly by the State in Austria, Estonia, Germany, Hungary, Italy and Sweden. It is guaranteed by special bodies indirectly governed by the State in France (CAF), Slovakia and Belgium (SECA or DEVO). It is guaranteed by local authorities in the Czech Republic, Denmark and Finland. It is guaranteed by special funds in Latvia, Lithuania, Luxembourg, Poland and Portugal. It is guaranteed by special agencies in the Netherlands and in the UK. In the UK, the State intervenes in cases when child maintenance payments are not honoured, but only to oblige the non-custodial parent to respect his or her responsibilities. Moreover, in some States private insurance companies can cover non-payment of child support, such as in France. The non-custodial parent subscribes to the service by paying a fixed amount and in the event that he or she fails to pay, the missing child maintenance is covered by the insurance company after all legal remedies have been exhausted.

In Denmark and in the UK, an administrative agency is in charge of providing child support in cases when the non-custodial parent fails to pay child maintenance: the Child Support Agency (CSA) for the UK and the local Statsamt for Denmark. A reform initiated in the UK in 2012 will change the functioning of the CSA from 2014, which will become Child Maintenance Service (CMS). The services of the CSA, currently free of charge, will carry a fee, in order to encourage parents to deal with their child maintenance arrangements between themselves. These changes have been criticized nationally, as there will be no structure in place to deal with divorced or separated parents who are in conflict, or to support single parents coping with an ex-partner who is unwilling to pay, unless the custodial parent is willing and able to pay the fee.²⁹

²⁸ SKINNER, C., DAVIDSON, J., 'Recent trends in Child Maintenance Schemes in 14 countries', *International Journal of Law, Policy and the Family*, Vol. 23, No. 1, 2009.

²⁹ INSLEY, J., 'Child Support Agency changes threaten women already living in fear', *The Observer*, 21 October 2012.

In Finland and the Netherlands, courts and agencies such as welfare boards work together to guarantee child maintenance. In Finland, if the parents disagree on the conditions of the child maintenance, they can opt to contact the municipal social welfare board or the court. In the Netherlands, 'a tripartite system operates between the courts, the Landelijk Bureau Inning Onderhoudsbijdragen (which is the national collection and support agency) and the municipal social assistance office'.³⁰

Child maintenance ends in most countries when the child turns 18 years old. However, in some countries, child maintenance payments end when the child is financially independent (in the Czech Republic) or after graduation from his or her higher education (in Estonia, Greece, Ireland, Poland and Romania).

Table 8 below gives an overview of the systems in EU countries concerning child maintenance.

³⁰ SKINNER, C., DAVIDSON, J., Op. Cit.

Table 8: Key characteristics of child maintenance systems³¹

Country	Involvement in the determination of child maintenance			Responsibility for determining maintenance payments	Rules for determining amount of payments	Responsibility for enforcement of payments	Age at which support ends	Advance on maintenance
	Parents	Court	Agency					
Austria	Yes, ratified by court	Yes	No	Parents with court approval	Formal guidelines and formula	Court	18	Yes
Belgium	Yes, ratified by court	Yes	No	Court	Mostly discretion, no fixed rules or methods	Court	18	Yes
Bulgaria	-	-	-	Court	-	Court and bailiff	18	Yes
Cyprus	Yes, ratified by court	Yes	Yes	Parents and court	Court	Court and police	18	Yes
Czech Republic	Yes, entry into formal system if parents cannot agree	Yes	Yes, socio-legal protection authorities	District and Regional Courts	Guidelines given by law	Court and Office for International Legal Protection of Children in foreign matters	Until child is economically independent	Yes
Denmark	Yes, ratified by Country Governor's office	No	Yes, Country Governor's Office	Parents or State County's Agency is parental disagreement	Rules and rigid formula	State County's Agency	18	Yes
Estonia	Yes	Yes	Yes, if child is on State maintenance	Court if parental disagreement	Minimum stated by the State, additional amount according to parental income	Enforcement Service	18 or when Secondary School is finished	Yes

³¹ OECD, 2010, Op. Cit.

Finland	Yes-mediated and confirmed by Social Welfare Board	Yes, residual role	Yes, Social Welfare Board	Parents or Social Welfare Board and court if parental disagreement	Mostly discretion, with informal guidelines	Municipal Social Welfare Board	18	Yes
France	Yes, approved by the judge	Yes	No	Parents or court if they disagree	-	Court	Until the financial independence of the child	Yes
Germany	Yes	Yes	No	Parents or court if they disagree	Mostly discretion using 'support tables'	Court	18	Yes
Greece	Yes	Yes	No	Parents or court	Rules based on parents' income	Court	18, or 24 if in full-time education	No
Hungary	Yes, ratified by Court	Yes	No	Parents with court approval	Fixed rules	Court	20	Yes
Ireland	Yes, ratified by Court	Yes	No	Parents or court if they disagree	Legal guidelines but high level of Court discretion	Court	18, or 23 if in full-time education	No
Italy	No	Yes	No	Court	-	Justices of the peace on claims under threshold, courts for claims above this	Until the financial independence of the child, but if the child is in need, payments are still required	Yes
Latvia	Yes	Yes	No	Parents or court if they disagree	Mostly discretion, no fixed rules or methods	Court	Parental agreement, otherwise 20	Yes
Lithuania	-	Yes	-	Court	-	Court and bailiff	18	Yes

Luxembourg	Yes	Yes	-	Parents or court if they disagree	-	District court or justice of peace	Until financial independence of the child	Yes
Malta	Yes, ratified by Court	Yes	No	Parents with court supervision or court if parents disagree	Legal guidelines, but Courts have discretion	Court	18, or 16 if the child is already working	No
The Netherlands	Yes, ratified by Court	Yes	No	Parents with supervision of lawyers, court if parents disagree or in receipt of social benefits	Mostly discretion with informal guidelines	National Collection and Support Agency, enforcement through a bailiff. If contestation of the enforcement: Court.	21	No
Poland	Yes	No	Yes, Welfare Office	Parents, local government, Welfare Office	Formal guidelines	Yes	18, or 21 when attending school	Yes
Portugal	Yes, entry into formal system if parents cannot agree	Yes	No	Parents with supervision of lawyers, court if parent disagree	Informal guidelines for private agreements or rules defined by court if parents disagree	Court	18	No
Romania	Yes	Yes	Yes, Commission for Children Protection (CCP)	Parents or CCP, court if parents disagree	Informal guidelines	Court, Ministry of Labour, Family and Equal Opportunities	18 or until schooling is finished	No
Slovakia	Yes, confirmed by Social Welfare Bond	Yes	No	Court	Mostly discretion, with informal guidelines	Enforcement Service	18	Yes

Slovenia	Yes	Yes	Yes, Department of Social Security (DSS)	Parents, or DSS then Courts is parents disagree	-	Enforcement department of the Civil Court	18, or up to 25 in special circumstances	Yes
Spain	Yes	Yes	No	Court	Mostly discretion using 'support tables'	Court	18	Yes
Sweden	Yes, confirmed by Social Welfare Bond	Yes	No	Court	Mostly discretion, informal guidelines	Enforcement Service	18	Yes
United Kingdom	Yes, ratified by Court	Yes, residual role	Yes, Child Support Agency (CSA)	Parents or CSA if they disagree	Rules and rigid formula	Courts and CSA	Varies from 18 to 25 in England, Wales, Scotland and NI	Yes

3.2. Child maintenance in relation to other income

According to research, child maintenance for single-parent families represents the highest proportion of the social benefits in Germany (53.6%) and in the UK (50.1%). Moreover, the report indicates that in Nordic countries, where lone parents have higher employment rates (Denmark, Sweden and Finland), child maintenance represents a lower proportion of the single parents' average earnings (9.6%, 11.0% and 11.6% respectively), while in Germany, for example, child maintenance as proportion of a single parents' average earnings is the highest (42.8%). In this country, the employment rate for single mothers' is low.³²

3.3. Enforcing child maintenance payments

In cases when the non-custodial parent fails to pay child maintenance to the former partner, judicial mechanisms are established in all the EU countries to help the custodial parent to obtain the money owed. These mechanisms are very similar across the EU.

Two cases can be observed: when the non-custodial parent does not want to pay, or when he or she cannot pay. In cases when the non-custodial parent does not want to pay, the first step is usually a court order. The court order is a final warning demanding payment. If this is still not forthcoming, a bailiff can be appointed in order to obtain the payment.

Beyond this, the non-custodial parent's assets such as property or bank accounts may be seized and then sold, and if the situation persists, criminal action may be pursued, possibly leading to imprisonment.

In cases when the non-custodial parent cannot pay, the single parent can be provided with social benefits and assistance, as previously outlined.

Table 9 below shows the different mechanisms legally put in place in EU countries to oblige the non-custodial parent to pay child maintenance.

Table 9: Dealing with default and non-compliance in child maintenance obligations³³

Country	Routine actions for recovery of monies owed by non-resident parent	Further actions for persistent non-payment
Austria	Usually seizing wages.	Deductions from bank accounts/savings/pensions, deductions from benefits, seizing and selling assets, criminal prosecution, and interest charged on debt.

³² HAKOVIRTA, Op. Cit.

³³ Using information found in SKINNER, C., DAVIDSON, J., Op. Cit., and the European E-Justice Portal, accessible at: <https://e-justice.europa.eu/home.do?plang=en&action=home>

Bulgaria	Payment of the child support decision can be made with the help of a bailiff.	-
Belgium	Seizing earnings.	Seizing and selling assets, criminal prosecution, imprisonment, interest charged on debt.
Cyprus	-	-
Czech Republic	Seizing earnings.	Seizing and selling assets, seizing of businesses, seizing property deeds.
Denmark	Deductions from benefits (automatic for those on social assistance), recovery through tax then seizing earnings.	Seizing and selling assets, criminal prosecution (not in practice), and imprisonment (never in practice).
Estonia	The bailiff is contacted and will collect the payment.in exchange for a fee.	-
Finland	The bailiff is contacted to collect child maintenance. Then, deduction from earnings order or deduction from benefits. Recovery through tax; distraint of assets.	Deductions from bank accounts/savings/pensions, deductions from benefits, interest charged on debt.
France	The bailiff is contacted to collect child maintenance. Then, the seizing earnings and deductions from bank accounts is the most frequent.	Deductions from bank accounts/savings/pensions, deductions from benefits, recovery through tax (not directly, but possible action by treasury-fiscal administration), seizing and selling assets, criminal prosecution (uncommon), imprisonment (very uncommon); interest charged on debt.
Germany	Court orders, sanctioned by criminal law.	Fine, or up to three years of imprisonment
Greece	Seizing earnings	Seizing and selling assets
Hungary	In the case where the non-custodial parent doesn't pay child maintenance within six months, the custodial parent can complain to the Child Welfare Agency (Gyámhivatal), which then can contact the general prosecutor. The latter will then launch a law suit.	-
Ireland	Enforcement order, attachment of earnings, committal order.	Seizing and selling assets
Italy	-	-

Latvia	Enforcement order from the court establishing the rules of child maintenance between the parents. The enforcement order is submitted to the bailiff and has to be executed within ten days.	If the enforcement order is not executed, assets are seized and sold
Lithuania	The custodial parent applies to the court for court order. Then a bailiff is appointed to enforce the court order. If the court order has not been executed within ten days, earnings and other forms of income may be seized.	Seizing and selling of assets, mortgage of the property.
Luxembourg	Seizing earnings and other forms of income.	Seizing and selling of assets, fines, imprisonment (from one month to one year).
Malta	Enforcement order.	If the enforcement order has not been executed, assets may be seized and sold.
The Netherlands	The bailiff is contacted to collect child maintenance.	-
Poland	Enforcement order. If not respected, the bailiff is contacted to collect child maintenance.	-
Portugal	Seizing salary, deduction from social benefits or allowances.	Fine or imprisonment.
Romania	-	-
Slovakia	Enforcement order	-
Slovenia	Enforcement order	-
Spain	Seizing earnings, deduction from tax reimbursement, deduction from social security benefits.	Seizure of bank accounts, seizure and selling of assets. Imprisonment in some cases.
Sweden	Enforcement order	-
United Kingdom	CSA deals with procedures to make the non-custodial parent pay the due child maintenance.	-

4. JUDICIAL COOPERATION BETWEEN EU MEMBER STATES

At an international level, the United Nations' Convention of 20 June 1956 on the recovery of child maintenance abroad establishes 'procedures for international administrative cooperation'.

This possibility is crucial given the right to free movement of persons enshrined in the EU treaties. If a non-custodial parent leaves one Member State where his or her child and the custodial parent live, the child maintenance obligations of the non-custodial parents will carry a cross border dimension. This is the reason why the EU has acted to establish legal measures that aim to facilitate the resolution of cross-border conflicts between separated parents through judicial cooperation.

Council regulation 'Brussels I', in effect since March 2002, relates to jurisdiction and enforcement of judgements in civil and commercial affairs, and 'lays down rules on special jurisdiction for the courts concerning maintenance payments'³⁴. This regulation is not applicable in Denmark, where it is the Brussels Convention of 27 September 1968 which still applies in this matter.

The components of judicial cooperation between the EU Member States, and its consequences for child maintenance payments, are as follows:

- Mutual recognition between Member States of judicial and extrajudicial decisions and the simplification of their execution. This enables divorced or separated parents who are living in separate countries to assert court decisions concerning custody and child maintenance arrangements in the Member State in which a non-custodial parent is living;
- The cross-border exchange of judicial and extrajudicial documents, which enables information concerning child custody and child maintenance arrangements to be transmitted between Member States when separated or divorced parents do not live in the same country;
- Cooperation in compiling evidence. When conflicts surrounding child maintenance arise between parents living in separate countries after separation/divorce, for example when the mother suspects the father of having a higher income than the one he declared, she should receive help in proving these allegations through the cooperation of the country in which the father lives;
- Equal access to a legal remedy. When parents are living in separate countries after separation/divorce, the procedures of child maintenance claims should be as effective as if the custodial parent was living in his/her own country.

There are specific EU regulations concerning:

- Laws applicable to divorce and separation ([Regulation 1259/2010](#))³⁵;

³⁴ Council of the European Union, 'Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters', Official Journal L 012, 16 December 2001. The Regulation has been amended twice, firstly in 2006 by Regulation [1791/2006](#) and secondly in 2008 by [Regulation 1103/2008](#). For a non-binding consolidated version see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0044:20100514:EN:PDF>.

³⁵ For more information on Regulation 1259/2010 see: http://ec.europa.eu/justice_home/judicialatlascivil/html/di_information_en.htm.

- [Competency](#), recognition and execution of judicial decisions in matrimonial matters and in the field of parental responsibility of children ([Regulation 2201/2003](#))³⁶.
- [The recognition](#) and execution of judicial decisions and cooperation in the field of maintenance obligations (Regulation 4/2009)³⁷.

Moreover, specific provisions were put in place for the negotiation and conclusion of agreements between the Member States and third countries in the field of judicial decisions regarding maintenance obligations and parental responsibility (Regulation 664/2009³⁸). The EU has also ratified the Convention on the international recovery of child maintenance. Member States are therefore bound by this Convention (Council Decision 2011/432³⁹).

There are other procedures enabling conflict resolution in cross-border disputes between separated or divorced parents (Directive 2003/8⁴⁰), such as exchange of judicial and extrajudicial documents (Regulation 1393/2007⁴¹) and cross-border insolvency proceedings (Regulation 1346/2000⁴²). Furthermore, the European order for payment procedure simplifies, speeds up and reduces the costs of litigation in cross-border cases concerning uncontested pecuniary claims (Regulation 1896/2006⁴³).

In this way, EU judicial legislation in civil and commercial matters seeks to facilitate judicial cooperation between the Member States both in areas in which existing instruments apply and in those where no instrument is currently applicable.

³⁶ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning [jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility](#) [Official Journal L 338 of 23.12.2003]: http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_civil_matters/l33194_en.htm.

³⁷ Council Regulation (EC) No [4/2009](#) of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009R0004:EN:NOT>.

³⁸ Council Regulation (EC) No 664/2009 of 7 July 2009 establishing a procedure for the negotiation and conclusion of agreements between Member States and third countries concerning jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, matters of parental responsibility and matters relating to maintenance obligations, and the law applicable to matters relating to maintenance obligations: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R0664&from=EN>.

³⁹ Council Decision of 9 June 2011 on the approval, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011D0432&from=EN>.

⁴⁰ Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Directive&an_doc=2003&nu_doc=8.

⁴¹ Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1393&qid=1398874774234&from=EN>.

⁴² Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings: <http://eur-lex.europa.eu/legal-content/en/ALL/?jsessionid=PWvmThjCSFjGl5jtwLcq54hzZBC3bzhCJ0dvyGmLDKjTynwC6r4R!-2082536830?uri=CELEX:32000R1346>.

⁴³ Regulation (EC) No [1896/2006](#) of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R1896:EN:NOT>.

CONCLUSION

Child maintenance regulations fall under the competence of the Member States as they form part of national civil (and in some cases criminal) law codes and statutes. Every EU country has its own legal framework which defines child maintenance and penalises its non-payment. These frameworks are deeply intertwined with national family models and cultures.

Even if each Member State has its own rules concerning the measures taken to compel non-custodial parents to pay child maintenance, it is fair to say there are common trends in these rules across the EU. If the non-custodial parent fails to pay child maintenance, either through avoidance or financial difficulties, national legal frameworks provide legal means such as forced restitution, court orders, and seizure of bank accounts, salary, financial and housing assets. Some Member States even sanction default on payment with criminal proceedings and, in extremis, imprisonment.

After exhausting all remedies, some Member States provide help to the single parent by putting in place benefits and financial support to replace the part of the income that has not been provided by the non-custodial parent. In some Member States, agencies or special bodies have been established to provide help to the custodial parent when the absent parent fails to pay child maintenance. In this case, the non-custodial parent becomes liable to the State or agency responsible for the payment.

Furthermore, the EU has established regulations and conventions enabling cross-border cooperation between national judiciaries in cross-border disputes between custodial and non-custodial parents. These EU regulations are directly applicable in the Member States. Moreover, the key international conventions on this topic have been ratified by most EU Member States.

However, while every Member State has rules and systems in place to ensure the respect of child maintenance payments, there are still significant divergences in these frameworks relating to how maintenance payments are set and how payments are exacted. From this perspective, there is little evidence that EU Member States are moving towards harmonisation of the rules concerning child maintenance. Rather, EU civil law cooperation offers an opportunity for cross-border conflict resolution.

REFERENCES

European Union

Council Decision of 9 June 2011 on the approval, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings.

Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Official Journal L 012, 16 December 2001.

Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, OJ L 338 of 23.12.2003.

Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

Council Regulation (EC) No 664/2009 of 7 July 2009 establishing a procedure for the negotiation and conclusion of agreements between Member States and third countries concerning jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, matters of parental responsibility and matters relating to maintenance obligations, and the law applicable to matters relating to maintenance obligations.

European Commission, 'Female Labour Market Participation', 2013.

European Council, 'Presidency Conclusions', 15-16 October 1999.

European Parliament, 'Report on the Situation of Single Mothers', Committee on Women's Rights and Gender Equality, 2011/2049 (INI), 29 September 2011.

Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000.

Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

Other official sources

Congressional Research Service, 'Child Well-Being and Noncustodial Fathers', 12 February 2013. Accessible at: <http://www.fas.org/sqp/crs/misc/R41431.pdf>

EUROSTAT, 'Communiqué de presse: Les Femmes et les Hommes dans l'UE vus à travers les chiffres', 36/2011, 4 mars 2011. Accessible at: http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/1-04032011-AP/FR/1-04032011-AP-FR.PDF

EUROSTAT, 'News Release: Living arrangements in the EU27', STAT/11/156, 27 October 2011. Accessible at: http://europa.eu/rapid/press-release_STAT-11-156_en.htm

House of Commons, 'Child Support Agency: Implementation of the Child Support Reforms', Committee of Public Accounts, Thirty seventh report of sessions, 27 June 2007. Accessible at: <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmpubacc/812/812.pdf>

OECD, 'PF1.5: Child Support', OECD Family Database, Social Policy Division - Directorate of Employment, Labour and Social Affairs, 7 October 2010. Accessible at: <http://www.oecd.org/els/familiesandchildren/41920285.pdf>

OECD, 'Child well-being and sole-parent family structure in the OECD: an analysis', Social, Employment and Migration Working Papers no. 82, DELSA/ELSA/WD/SEM(2009)10, 23 March 2009. Accessible at: [http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=delisa/elsa/wd/sem\(2009\)10](http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=delisa/elsa/wd/sem(2009)10)

OECD, 'Families are Changing: Doing Better for Families', 2011. Accessible at: <http://www.oecd.org/els/familiesandchildren/47701118.pdf>

Academic sources

BRADSHAW, J., FINCH, N., 'A Comparison of Child Benefit Packages in 22 countries', Research Report No 174, Department of Work and Pensions, 2002. Accessible at: http://www.revenuebenefits.org.uk/pdf/Report_174_A_comparison_of_Child_Benefit_packages_in_22_countries_2002.pdf

HAKOVIRTA, M., 'Child Maintenance and Child Poverty: A Comparative Analysis', Journal of Poverty and Social Justice, Volume 19, Number 3, October 2011, pp. 249-262.

IAKOVOU, M., SKEW, A., 'Household structure in the EU', Iser Working Paper Series, No. 2010-10, April 2010, Institute for Social and Economic Research. Accessible at: https://www.iser.essex.ac.uk/files/iser_working_papers/2010-10.pdf

STEVENS, J., DE BERGEYCK, J, and DE LIEDEKERKE, A.-C., 'Realities of Mothers in Europe', Family Platform, Oct 2011: http://www.mmmeurope.org/ficdoc/WP2_MMM_Realities_of_Mothers_in_Europe.pdf

Other sources / Press articles

INSLEY, J., 'Child Support Agency changes threaten women already living in fear', The Observer, 21 October 2012. Accessible at: <http://www.guardian.co.uk/money/2012/oct/20/threat-child-maintenance>

MARTIN, D., 'Single-parent families so common in today's Britain, that couples are now in minority', Daily Mail, 3 August 2012. Accessible at: <http://www.dailymail.co.uk/news/article-2183462/Single-parent-families-common-todays-Britain-couples-minority.html>

Websites

European E-Justice Network, European Commission. Accessible at: <https://e-justice.europa.eu/home.do?plang=en&action=home>

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