



2016/0190(CNS)

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AMENDMENTS 25 - 190

Draft report

Tadeusz Zwiefka

(PE602.839v01-00)

on the proposal for a Council regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast)

Proposal for a regulation

(COM(2016)0411 – C8-0322/2016 – 2016/0190(CNS))

Amendment 25
Daniel Buda

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Council Regulation (EC) No 2201/2003³⁴ has been substantially amended³⁵. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

³⁴ 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, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

³⁵ See Annex V.

Amendment

(1) Council Regulation (EC) No 2201/2003³⁴ has been substantially amended³⁵. Since further ***indispensable*** amendments are to be made, that Regulation should be recast in the interests of clarity. ***The reform of the Regulation will help to strengthen legal certainty, increase flexibility, ensuring access to court and efficient proceedings, whilst Member States retain full sovereignty with regard to the substantive laws on parental responsibility.***

³⁴ 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, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

³⁵ See Annex V.

Or. ro

Amendment 26
Emil Radev

Proposal for a regulation
Recital 1

Text proposed by the Commission

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Amendment

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recast in the interests of clarity.

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³⁵ See Annex V.

recast in the interests of clarity ***and legal certainty***.

³⁴ 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, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

³⁵ See Annex V.

Or. bg

Amendment 27

Daniel Buda

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) This Regulation establishes uniform jurisdiction rules for divorce, separation and the annulment of marriage as well as rules for disputes about parental responsibility with an international element. It facilitates the free circulation of decisions in the Union by laying down provisions on their recognition and enforcement in other Member States.

Amendment

(2) This Regulation establishes uniform jurisdiction rules for divorce, separation and the annulment of marriage as well as rules for disputes about parental responsibility with an international element. It facilitates the free circulation of decisions in the Union, ***and of any other equivalent rulings issued by an authority of a Member State***, by laying down provisions on their recognition and enforcement in other Member States.

Or. ro

Amendment 28

Evelyne Gebhardt

Proposal for a regulation

Recital 2 a (new)

(2a) By registering a partnership with a public authority, the partners also establish a stable, legally recognised relationship. Accordingly, most Member States that recognise the legal institution of the registered partnership accord it the same status, as far as possible, as marriage. In order to ensure that such an equivalence is also achieved in the field of the jurisdiction, recognition and enforcement of decisions under Article 1 (1) of this Regulation, the scope of the Regulation should be extended; however, Member States that do not recognise the legal institution of registered partnership should be exempted from this extension.

Or. de

Justification

The extension shall take place in a manner consistent with the equal treatment of persons entitled to custody, regardless of a parent's family status, and in a manner consistent with the Council's decision authorising enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions on the property regimes of international couples, since family legal disputes regarding matrimonial matters, property rights and parental responsibility are often heard before the same court.

Amendment 29
Daniel Buda

Proposal for a regulation
Recital 3

(3) The smooth and correct functioning of a Union area of justice with respect for the Member States' different legal systems and traditions is vital for the Union. In that regard, mutual trust in one another's justice systems should be further enhanced. The Union has set itself the objective of

(3) The smooth and correct functioning of a Union area of justice ***and fundamental rights*** with respect for the Member States' different legal systems and traditions is vital for the Union. In that regard, mutual trust in one another's justice systems should be further enhanced. The Union has

creating, maintaining and developing an area of freedom, security and justice, in which the free movement of persons and access to justice are ensured.. With a view to implementing those objectives, the rights of persons, notably children, in legal proceedings should be reinforced in order to facilitate the cooperation of judicial and administrative authorities and the enforcement of decisions in family law matters with cross-border implications. The mutual recognition of decisions in civil matters should be enhanced, access to justice should be simplified and exchanges of information between the authorities of the Member States should be improved upon.

set itself the objective of creating, maintaining and developing an area of freedom, security and justice, in which the free movement of persons, ***respect for fundamental rights*** and access to justice are ensured. With a view to implementing those objectives, the rights of persons, notably children, in legal proceedings should be reinforced in order to facilitate the cooperation of judicial and administrative authorities ***and other authorities in the Member States with jurisdiction in the matters falling within the scope of this Regulation*** and the enforcement of decisions ***or any equivalent rulings issued by an authority of a Member State*** in family law matters with cross-border implications. The mutual recognition of decisions in civil matters should be enhanced, access to justice should be simplified and exchanges of information between the authorities of the Member States should be improved upon.

Or. ro

Amendment 30 **Jean-Marie Cavada**

Proposal for a regulation **Recital 4**

Text proposed by the Commission

(4) To this end, the Union is to adopt, among others, measures in the field of judicial cooperation in civil matters having cross-border implications, particularly when necessary for the proper functioning of the internal market.

Amendment

(4) To this end, the Union is to adopt, among others, measures in the field of judicial cooperation in civil matters having cross-border implications, particularly when necessary for the ***free movement of persons and for the*** proper functioning of the internal market.

Or. fr

Amendment 31
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to enhance judicial cooperation in civil matters having cross-border implications, judicial training, especially in cross border family law, is needed. Training activities, such as seminars and exchanges, are required at both Union and national level, in order to raise awareness of this regulation, its content and consequences, as well as to build mutual trust in each other's national judicial systems.

Or. en

Amendment 32
Daniel Buda

Proposal for a regulation
Recital 5

Text proposed by the Commission

Amendment

(5) In order to attain the objective of free circulation of decisions in matrimonial matters and matters of parental responsibility, it is necessary and appropriate that the rules governing jurisdiction and the recognition and enforcement of decisions be governed by a legal instrument of the Union which is binding and directly applicable.

(5) In order to attain the objective of free circulation of decisions **or any equivalent rulings issued by an authority of a Member State** in matrimonial matters and matters of parental responsibility, it is necessary and appropriate that the rules governing jurisdiction and the recognition and enforcement of decisions be governed by a legal instrument of the Union which is binding and directly applicable.

Or. ro

Amendment 33
Angel Dzhambazki, Kosma Złotowski

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) In order to ensure equality for all children, this Regulation should cover all decisions on parental responsibility, including measures for the protection of children, independent of any link with a matrimonial proceeding ***or other proceedings***.

Amendment

(6) In order to ensure equality for all children, this Regulation should cover all decisions on parental responsibility, including measures for the protection of children, independent of any link with a matrimonial proceeding.

Or. en

Justification

The wording is not in accordance with Article 1(3) of the very same Regulation.

Amendment 34
Jean-Marie Cavada

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Within the meaning of Article 11 of this Regulation, jurisdiction rules are also applicable to all children who are present on Union territory and whose habitual residence cannot be established with certainty. The scope thereof extends in particular to refugee children and children who have been internationally displaced either for socioeconomic reasons or because of disturbances occurring in their country.

Or. fr

Amendment 35
Daniel Buda

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) As regards decisions on divorce, legal separation or marriage annulment, this Regulation should apply only to the dissolution of matrimonial ties and should not deal with issues such as the grounds for divorce, property consequences of the marriage or any other ancillary measures.

Amendment

(8) As regards decisions ***or any equivalent rulings issued by an authority of a Member State*** on divorce, legal separation or marriage annulment, this Regulation should apply only to the dissolution of matrimonial ties and should not deal with issues such as the grounds for divorce, property consequences of the marriage or any other ancillary measures.

Or. ro

Amendment 36
Marijana Petir, Angelika Niebler

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) This Regulation does not define 'marriage', which is defined by the national laws of the Member States.

Or. en

Justification

The proposal follows the approach of Recital 17 of Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

Amendment 37
Daniel Buda

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) This Regulation leaves it to the discretion of the Member States to define marriage.

Or. ro

Amendment 38
Daniel Buda

Proposal for a regulation
Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) This Regulation leaves it to the discretion of the Member States to define marriages between persons of the same sex.

Or. ro

Amendment 39
Marijana Petir, Angelika Niebler

Proposal for a regulation
Recital 8 c (new)

Text proposed by the Commission

Amendment

(8c) The recognition and enforcement of a decision in matters covered by the present Regulation cannot be considered as a recognition of the marriage which gave rise to the decision.

Or. en

Justification

The proposal represents, with respect to the institution of marriage, Recital 63 of Council Regulation (EU) 2016/1104 of 24 June 2016 implementing enhanced cooperation in the area

of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships.

Amendment 40

Angel Dzhambazki, Kosma Złotowski

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) This Regulation should not apply to the establishment of parenthood, since this is a different matter from the attribution of parental responsibility, nor to other questions linked to the status of persons.

Amendment

(10) This Regulation should not apply to the establishment of parenthood, since this is a different matter from the attribution of parental responsibility, nor to other questions linked to the status of persons. ***In addition, this Regulation is not intended to apply to matters relating to social security, public measures of a general nature in matters of education or health or to decisions on the right of asylum and on immigration.***

Or. en

Justification

The re-insertion of the deleted partial text is for coherence purposes with Article 1.

Amendment 41

Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) This Regulation should fully respect all the rights set out in the Charter of Fundamental Rights of the European Union ('the Charter'), and especially the right to an effective remedy and to a fair trial (Article 47 of the Charter), as well as the right to the respect for private and family life (Article 7 of the Charter) and

the rights of the child (Article 24 of the Charter).

Or. en

Amendment 42
Evelyne Gebhardt

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) In order to achieve greater legal certainty with regard to the general jurisdiction of the courts in the case of divorce, separation, suspension and annulment, the competent courts referred to above should be subject to a hierarchy.

Or. de

Amendment 43
Evelyne Gebhardt

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The meaning of the term 'habitual residence' is to be examined on the basis of the definitions by the authorities on a case-by-case basis, in the light of the actual circumstances.

Or. de

Amendment 44
Evelyne Gebhardt

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Where the child's habitual residence changes following a lawful relocation, jurisdiction should follow the child in order to maintain the proximity. ***This should apply where no proceedings are yet pending, and also in pending proceedings.*** In pending proceedings, however, parties may agree in the interests of the efficiency of justice that the courts of the Member State where proceedings are pending retain jurisdiction until a final decision has been given, provided that this is in the best interests of the child. ***This possibility is of particular importance where proceedings are nearing conclusion and one parent wishes to relocate to another Member State with the child.***

Amendment

(15) Where the child's habitual residence changes following a lawful relocation, jurisdiction should follow the child in order to maintain the proximity. In pending proceedings, however, parties may agree in the interests of the efficiency of justice that the courts of the Member State where proceedings are pending retain jurisdiction until a final decision has been given, provided that this is in the best interests of the child. ***On the other hand, pending proceedings relating to custody and access rights should be concluded so that persons entitled to custody do not remove a child to another country in order thereby to avoid an unfavourable decision by an authority, unless the parties agree that the pending proceedings should be terminated.***

Or. de

Amendment 45

Angel Dzhambazki, Kosma Złotowski

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, with regard to the person or property of a child present in that Member State. Those measures should be recognised and ***enforced*** in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the measures it considers appropriate. Measures taken by a court in

Amendment

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, with regard to the person or property of a child present in that Member State. Those measures should be recognised and ***enforceable*** in all other Member States including the Member States having jurisdiction under this Regulation, ***providing these do not go against Member States jurisdictional provisions and*** until a competent authority of such a Member

one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

State has taken the measures it considers appropriate. Measures taken by a court in one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

Or. en

Amendment 46
Daniel Buda

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, with regard to the person or property of a child present in that Member State. Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the measures it considers appropriate.

Amendment

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, with regard to the person or property of a child present in that Member State. Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the measures it considers appropriate.

Measures taken by a court in one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

Measures taken by a court in one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority ***and without undue delay***, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

Or. ro

Amendment 47
Evelyne Gebhardt

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, with regard to the person or property of a child present in that Member State. Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the measures it considers appropriate. Measures taken by a court in one Member

Amendment

(17) This Regulation should not prevent the authorities of a Member State not having jurisdiction over the substance of the matter from taking provisional, including protective measures, in urgent cases, ***for instance in cases of domestic or gender-specific violence***, with regard to the person or property of a child present in that Member State. Those measures should be recognised and enforced in all other Member States including the Member States having jurisdiction under this Regulation until a competent authority of such a Member State has taken the

State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

measures it considers appropriate. Measures taken by a court in one Member State should however only be amended or replaced by measures also taken by a court in the Member State having jurisdiction over the substance of the matter. An authority only having jurisdiction for provisional, including protective measures should, if seised with an application concerning the substance of the matter, declare of its own motion that it has no jurisdiction. Insofar as the protection of the best interests of the child so requires, the authority should inform, directly or through the Central Authority, the authority of the Member State having jurisdiction over the substance of the matter under this Regulation about the measures taken. The failure to inform the authority of another Member State should however not as such be a ground for the non-recognition of the measure.

Or. de

Amendment 48
Emil Radev

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) In exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. In the best interests of the child, as an exception and under certain conditions, the authority having jurisdiction may transfer its jurisdiction in a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the second authority should ***not be allowed to*** transfer jurisdiction to a third authority.

Amendment

(18) In exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. In the best interests of the child, as an exception and under certain conditions, the authority having jurisdiction may transfer its jurisdiction in a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the ***agreement of the*** second authority should ***first be obtained, since once it has accepted the case it cannot*** transfer jurisdiction to a

third authority .

Or. bg

Amendment 49
Jean-Marie Cavada

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) In exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. ***In the best interests of the child***, as an exception and under certain conditions, the authority having jurisdiction may transfer its jurisdiction in a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the second authority should not be allowed to transfer jurisdiction to a third authority .

Amendment

(18) In exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. As an exception and under certain conditions, the authority having jurisdiction may transfer its jurisdiction in ***connection with*** a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the second authority should not be allowed to transfer jurisdiction to a third authority. ***Prior to any transfer of competence, the best interests of the child must be considered and fully taken into account.***

Or. fr

Amendment 50
Rainer Wieland

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) ***In*** exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. In the best interests of the child, as an exception and under certain conditions,

Amendment

(18) ***Particular attention should be paid to the fact that, in*** exceptional cases, the authorities of the Member State of habitual residence of the child may not be the most appropriate authorities to deal with the case. In the best interests of the child, as an

the authority having jurisdiction may transfer its jurisdiction in a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the second authority should not be allowed to transfer jurisdiction to a third authority .

exception and under certain conditions, the authority having jurisdiction may transfer its jurisdiction in a specific case to an authority of another Member State if this authority is better placed to hear the case. However, in this case the second authority should not be allowed to transfer jurisdiction to a third authority .

Or. de

Amendment 51

Emil Radev

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation.

This Regulation is however not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place .

Amendment

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation.

This Regulation is however not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place. ***It is essential that the hearing of the child provide all guarantees necessary to allow the emotional integrity and the best interests of the child to be protected and, for this reason, such hearings should involve the support of professional mediators along with psychologists and/or social workers***

and interpreters.

Or. bg

Amendment 52

Daniel Buda

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation. This Regulation is however not intended to set out *how* to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child *is* heard in the courtroom or in another place.

Amendment

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views, ***taking account of the child's age and maturity***. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation. This Regulation is however not intended to set out ***common minimum standards for the Member States regarding the procedures*** to hear the child, for instance, whether the child should be heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child ***should be*** heard in the courtroom or in another place, ***which is governed by the procedural rules laid down by each Member State's national legislation***.

Or. ro

Amendment 53

Rainer Wieland

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation. This Regulation is *however* not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place .

Amendment

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation. ***It should be stressed that*** this Regulation is not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place.

Or. de

Amendment 54
Evelyne Gebhardt

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the

Amendment

(23) Proceedings in matters of parental responsibility under this Regulation as well as return proceedings under the 1980 Hague Convention should respect the child's right to express his or her views freely, and when assessing the child's best interests, due weight should be given to those views. The hearing of the child in accordance with Article 24(1) of the Charter of Fundamental Rights of the

European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation.

This Regulation is however not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place .

European Union and Article 12 of the United Nations Convention on the Rights of the Child plays an important role in the application of this Regulation. This Regulation should therefore set *minimum criteria for the child's hearing. These should regulate the age from which a child must be heard, the age-appropriate conduct of proceedings in relation to content and language, the persons entitled to conduct the hearing, the venue of the hearing, the choice of language, the presence of persons and the keeping of a record of proceedings of the hearing.*

Or. de

Amendment 55
Rainer Wieland

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) This Regulation is however not intended to set out how to hear the child, for instance, whether the child is heard by the judge in person or by a specially trained expert reporting to the court afterwards, or whether the child is heard in the courtroom or in another place, but in order to protect the fundamental rights at stake, provision should be made in any case for the hearing of the child to be recorded. The hearing of the child must provide all the guarantees that allow to preserve the emotional integrity and the best interest of the child. Both holders of parental responsibility and their legal advisors must have the opportunity to see the hearing recorded.

Or. en

Amendment 56
Rainer Wieland

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) In order to conclude the return proceedings under the 1980 Hague Convention as quickly as possible, Member States should concentrate jurisdiction for those proceedings upon one or more courts, taking into account their internal structures for the administration of justice as appropriate. The concentration of jurisdiction upon a limited number of courts within a Member State is an essential and effective tool for speeding up the handling of child abduction cases in several Member States because the judges hearing a larger number of these cases develop particular expertise. Depending on the structure of the legal system, jurisdiction for child abduction cases could be concentrated in one single court for the whole country or in a limited number of courts, using, for example, the number of appellate courts as point of departure and concentrating jurisdiction for international child abduction cases upon one court of first instance within each district of a court of appeal. Every instance should give its decision no later than six weeks after the application or appeal has been lodged with it. Member States should limit the number of appeals possible against a decision granting or refusing the return of a child under the 1980 Hague Child Abduction Convention to one.

Amendment

(26) In order to conclude the return proceedings under the 1980 Hague Convention as quickly as possible, Member States should concentrate jurisdiction for those proceedings upon one or more courts, taking into account their internal structures for the administration of justice as appropriate. The concentration of jurisdiction upon a limited number of courts within a Member State is an essential and effective tool for speeding up the handling of child abduction cases in several Member States because the judges hearing a larger number of these cases develop particular expertise. Depending on the structure of the legal system, jurisdiction for child abduction cases could be concentrated in one single court for the whole country or in a limited number of courts, using, for example, the number of appellate courts as point of departure and concentrating jurisdiction for international child abduction cases upon one court of first instance within each district of a court of appeal. Every instance should give its decision no later than six weeks after the application or appeal has been lodged with it. Member States should limit the number of appeals possible against a decision granting or refusing the return of a child under the 1980 Hague Child Abduction Convention to one. ***Measures should also be taken to ensure that court judgments handed down in one Member State are recognised in another Member State. When a court judgment has been handed down, it must also be recognised throughout the European Union, especially in the interests of children.***

Or. de

Amendment 57

Daniel Buda

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) In order to conclude the return proceedings under the 1980 Hague Convention as quickly as possible, Member States should concentrate jurisdiction for those proceedings upon **one or more** courts, taking into account their internal structures for the administration of justice as appropriate. The concentration of jurisdiction upon a limited number of courts within a Member State is an essential and effective tool for speeding up the handling of child abduction cases in several Member States because the judges hearing a larger number of these cases develop particular expertise. Depending on the structure of the legal system, jurisdiction for child abduction cases could be concentrated in **one single court for the whole country or in** a limited number of courts, using, for example, the number of appellate courts as point of departure and concentrating jurisdiction for international child abduction cases upon one court of first instance within each district of a court of appeal. Every instance should give its decision no later than six weeks after the application or appeal has been lodged with it. Member States should limit the number of appeals possible against a decision granting or refusing the return of a child under the 1980 Hague Child Abduction Convention to one.

Amendment

(26) In order to conclude the return proceedings under the 1980 Hague Convention as quickly as possible, Member States should concentrate jurisdiction for those proceedings upon **a limited number of** courts, taking into account their internal structures for the administration of justice as appropriate. The concentration of jurisdiction upon a limited number of courts within a Member State is an essential and effective tool for **simplifying and** speeding up the handling of child abduction cases in several Member States because the judges hearing a larger number of these cases develop particular expertise. Depending on the structure of the legal system, jurisdiction for child abduction cases could be concentrated in a limited number of courts, using, for example, the number of appellate courts as point of departure and concentrating jurisdiction for international child abduction cases upon one court of first instance within each district of a court of appeal, **without prejudice to parties' right of access to justice or the timeliness of the return proceedings**. Every instance should give its decision no later than six weeks after the application or appeal has been lodged with it. Member States should limit the number of appeals possible against a decision granting or refusing the return of a child under the 1980 Hague Child Abduction Convention to one.

Or. ro

Amendment 58
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) The role of mediation should be increased, especially in relation to the hearing of the child, with a view to resuming basic forms of communication between the child's caregivers involved in the dispute. Also in view of an increase in cross-border custody disputes across the European Union, where no international framework is available, as a result of the recent migration inflows, mediation is often proven the only legal means to help families reach a sustainable solution on family disputes.

Or. en

Amendment 59
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Recital 27 b (new)

Text proposed by the Commission

Amendment

(27b) In order to offer an effective alternative to court proceedings in national or international matters of family disputes, the mediators involved need to have undergone appropriate specialised training; the training should cover, in particular the legal framework of cross-border family disputes, intercultural competence and tools to manage high conflict situations, always having regard to the best interest of the child. Training for judges in the Member States should also address how to encourage parties to engage in mediation as early as possible and how to incorporate mediation into

court proceedings without causing unnecessary delay.

Or. en

Amendment 60
Evelyne Gebhardt

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Amendment

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. ***In the event of a positive outcome, the judicial and administrative authorities should urge the parties to engage in mediation.*** Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Or. de

Amendment 61
Daniel Buda

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through

Amendment

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities, ***as well as other authorities in the Member States with jurisdiction in the***

mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

matters falling within the scope of this Regulation, should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Or. ro

Amendment 62
Rainer Wieland

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Amendment

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should consider the possibility of achieving amicable solutions through mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention. ***In addition, the expertise of ombudsmen should be better used and implemented.***

Or. de

Amendment 63
Jean-Marie Cavada

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) In all cases concerning children, and in particular in cases of international child abduction, judicial and administrative authorities should ***consider the possibility of achieving amicable solutions through*** mediation and other appropriate means, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Amendment

(28) In all cases concerning children, and in particular in cases of international child abduction, ***before or after referral to*** judicial and administrative authorities, ***the parties should have recourse in a timely manner, if possible, to*** mediation and other appropriate means ***in order to achieve an amicable and prompt solution***, assisted, where appropriate, by existing networks and support structures for mediation in cross-border parental responsibility disputes. Such efforts should not, however, unduly prolong the return proceedings under the 1980 Hague Convention.

Or. fr

Amendment 64
Evelyne Gebhardt

Proposal for a regulation
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) The use of mediation can play a very important role in ending conflicts, especially in the case of cross-border, parental conflicts about the custody of and right of access to a child.
In order to promote mediation in these cases, the authorities should therefore assist the parties in choosing mediators and in the organisational planning. It is also recommended that the parties should be provided with financial assistance to carry out the mediation at least to the extent to which they have also granted or would have granted legal aid.

Or. de

Amendment 65

Daniel Buda

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) The recognition of a decision should be refused only if one or more of the grounds for refusal of recognition provided for in Articles 37 and 38 are present. The grounds mentioned in points (a) to (c) of Article 38(1), however, may not be invoked against decisions on rights of access and the decisions on return pursuant to the second subparagraph of Article 26(4) which have been certified in the Member State of origin in accordance with this Regulation, as this was already the case under Regulation (EC) No 2201/2003.

Amendment

(32) The recognition of a decision ***or equivalent ruling issued by an authority of a Member State*** should be refused only if one or more of the grounds for refusal of recognition provided for in Articles 37 and 38 are present. The grounds mentioned in points (a) to (c) of Article 38(1), however, may not be invoked against decisions ***or equivalent rulings*** on rights of access and the decisions on return pursuant to the second subparagraph of Article 26(4) which have been certified in the Member State of origin in accordance with this Regulation, as this was already the case under Regulation (EC) No 2201/2003.

Or. ro

Amendment 66

Daniel Buda

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) In addition, the aim of making cross-border litigation concerning children less time consuming and costly justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility matters. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border

Amendment

(33) In addition, the aim of making cross-border litigation concerning children ***efficient***, less time consuming and ***less*** costly justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions ***or equivalent rulings issued by an authority of a Member State*** on parental responsibility matters. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions ***or equivalent rulings*** granting access and certain

enforcement of all decisions in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions *or, as appropriate, equivalent rulings issued by an authority of a Member State* in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision *or equivalent ruling* given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

Or. ro

Amendment 67
Jean-Marie Cavada

Proposal for a regulation
Recital 33

Text proposed by the Commission

(33) In addition, the aim of ***making cross-border litigation concerning children less time consuming and costly*** justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility matters. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

Amendment

(33) In addition, the aim of ***facilitating the free movement of European citizens*** justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility matters. ***That will, in particular, make cross-border litigation concerning children less time consuming and costly.*** While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

Or. fr

Amendment 68

Angel Dzhambazki, Kosma Zlotowski

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) In addition, the aim of making cross-border litigation concerning children less time consuming and costly justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility **matters**. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions in matters of parental responsibility. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

Amendment

(33) In addition, the aim of making cross-border litigation concerning children less time consuming and costly justifies the abolition of the declaration of enforceability prior to enforcement in the Member State of enforcement for all decisions on parental responsibility ***falling within the scope of this Regulation***. While Regulation (EC) No 2201/2003 only abolished this requirement for decisions granting access and certain decisions ordering the return of a child, this Regulation now provides for a single procedure for the cross-border enforcement of all decisions in matters of parental responsibility ***falling within the scope of this Regulation***. As a result, subject to the provisions of this Regulation, a decision given by the authorities of a Member State should be treated as if it had been given in the Member State of enforcement.

Or. en

Justification

The proposed text goes beyond the scope, as set out in this Regulation

Amendment 69

Daniel Buda

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) Authentic instruments and

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Amendment

(34) Authentic instruments and

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agreements between parties that are enforceable in one Member State should be treated as equivalent to 'decisions' for the purpose of the application of the rules on recognition and enforcement.

agreements between parties that are enforceable in one Member State should be treated as equivalent to 'decisions' **and 'equivalent rulings'** for the purpose of the application of the rules on recognition and enforcement.

Or. ro

Amendment 70

Axel Voss

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) Authentic instruments and agreements between parties that are enforceable in one Member State should be treated as equivalent to 'decisions' for the purpose of the application of the rules on **recognition and** enforcement.

Amendment

(34) Authentic instruments and agreements between parties that are enforceable in one Member State should be treated as equivalent to 'decisions' for the purpose of the application of the rules on enforcement.

Or. de

Amendment 71

Daniel Buda

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) The direct enforcement in a Member State of a decision given in another Member State without a declaration of enforceability should not jeopardise the respect for the rights of the defence. Therefore, the person against whom enforcement is sought should be able to apply for refusal of the recognition or enforcement of a decision if he or she considers one of the grounds for refusal of recognition or enforcement of this

Amendment

(36) The direct enforcement in a Member State of a decision **or equivalent ruling** given **or issued** in another Member State without a declaration of enforceability should not jeopardise the respect for the rights of the defence. Therefore, the person against whom enforcement is sought should be able to apply for refusal of the recognition or enforcement of a decision **or equivalent ruling** if he or she considers one of the

Regulation to be present.

grounds for refusal of recognition or enforcement of this Regulation to be present.

Or. ro

Amendment 72

Daniel Buda

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) A party challenging the enforcement of a decision given in another Member State should, to the extent possible and in accordance with the legal system of the Member State of enforcement, be able to invoke, in the same procedure, in addition to the grounds for refusal of recognition or enforcement as set out in Articles 37 and 38 of this Regulation, the grounds for refusal of enforcement as such as set out in Article 40(2) of this Regulation. The incompatibility of the enforcement of a decision with the best interests of the child which has been caused by the strength of the objections of a child of sufficient age and maturity or by another change of circumstances which occurred after the decision was given, should only be considered if it reaches an importance comparable to the public policy exception. Grounds for refusal of enforcement available under national law may not be invoked. Where the refusal of enforcement is based on the objections of a child of sufficient age and maturity, the competent authorities in the Member State of enforcement should however take all appropriate steps to prepare the child for enforcement and obtain his or her cooperation before refusing enforcement.

Amendment

(37) A party challenging the enforcement of a decision ***or equivalent ruling*** given ***or issued*** in another Member State should, to the extent possible and in accordance with the legal system of the Member State of enforcement, be able to invoke, in the same procedure, in addition to the grounds for refusal of recognition or enforcement as set out in Articles 37 and 38 of this Regulation, the grounds for refusal of enforcement as such as set out in Article 40(2) of this Regulation. The incompatibility of the enforcement of a decision ***or equivalent ruling*** with the best interests of the child which has been caused by the strength of the objections of a child of sufficient age and maturity or by another change of circumstances which occurred after the decision ***or equivalent ruling*** was given ***or issued***, should only be considered if it reaches an importance comparable to the public policy exception. Grounds for refusal of enforcement available under national law may not be invoked. Where the refusal of enforcement is based on the objections of a child of sufficient age and maturity, the competent authorities in the Member State of enforcement should however take all appropriate steps to prepare the child for enforcement and obtain his or her cooperation before refusing enforcement.

Amendment 73
Jean-Marie Cavada

Proposal for a regulation
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Any refusal to recognise a decision as defined in this Regulation on the ground that recognition would be manifestly contrary to the public policy of the Member State concerned must be in accordance with Article 21 of the Charter of Fundamental Rights of the European Union.

Or. fr

Amendment 74
Daniel Buda

Proposal for a regulation
Recital 38

Text proposed by the Commission

Amendment

(38) In order to inform the person against whom enforcement is sought of the enforcement of a decision given in another Member State, the certificate established under this Regulation should be served on that person ***in reasonable time*** before the first enforcement measure and if necessary, accompanied by the decision. In that context, the first enforcement measure should mean the first enforcement measure after such service.

(38) In order to inform the person against whom enforcement is sought of the enforcement of a decision ***or equivalent ruling*** given ***or issued*** in another Member State, the certificate established under this Regulation should be served on that person ***without undue delay*** before the first enforcement measure and if necessary, accompanied by the decision ***or equivalent ruling***. In that context, the first enforcement measure should mean the first enforcement measure after such service.

Or. ro

Amendment 75
Daniel Buda

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) The certificate issued to facilitate enforcement of the decision should not be subject to appeal. It should be rectified only where there is a material error, namely where it does not correctly reflect the decision . It should be withdrawn where it was clearly wrongly granted, having regard to the requirements laid down in this Regulation.

Amendment

(39) The certificate issued to facilitate enforcement of the decision ***or equivalent ruling issued by an authority of a Member State*** should not be subject to appeal. It should be rectified only where there is a material error, namely where it does not correctly reflect the decision . It should be withdrawn where it was clearly wrongly granted, having regard to the requirements laid down in this Regulation.

Or. ro

Amendment 76
Emil Radev

Proposal for a regulation
Recital 42

Text proposed by the Commission

(42) In specific cases in matters of parental responsibility which fall within the scope of this Regulation, Central Authorities should cooperate with each other in providing assistance to national authorities as well as to holders of parental responsibility. Such assistance should in particular include locating the child, either directly or through other competent authorities, where this is necessary for carrying out a request under this Regulation, and providing child-related information required for the purpose of proceedings.

Amendment

(42) In specific cases in matters of parental responsibility which fall within the scope of this Regulation, Central Authorities should cooperate with each other in providing assistance to national authorities as well as to holders of parental responsibility. Such assistance should in particular include locating the child, either directly or through other competent authorities, where this is necessary for carrying out a request under this Regulation, and providing child-related information required for the purpose of proceedings. ***In cases where the jurisdiction is in a Member State other than the Member State of which the child is a national, the central authorities of the Member State with jurisdiction shall***

inform, without undue delay, the central authorities of the Member State of which the child is a national.

Or. bg

Amendment 77

Heidi Hautala

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) Without prejudice to any requirements under its national procedural law, a requesting authority should have the discretion to choose freely between the different channels available to it for obtaining the necessary information, for example, in case of courts by applying Council Regulation (EC) No 1206/2001, by using the European Judicial Network in civil and commercial matters, in particular the Central Authorities established under this Regulation, Network judges and contact points, or in case of judicial and administrative authorities by requesting information through a specialised non-governmental organisation in this field.

Amendment

(44) Without prejudice to any requirements under its national procedural law, a requesting authority should have the discretion to choose freely between the different channels available to it for obtaining the necessary information, for example, in case of courts by applying Council Regulation (EC) No 1206/2001, by using the European Judicial Network in civil and commercial matters, in particular the Central Authorities established under this Regulation, Network judges and contact points, or in case of judicial and administrative authorities by requesting information through a specialised non-governmental organisation in this field.
International judicial cooperation and communication should be initiated and/or facilitated by specially designated Network or Liaison judges in each Member State. The role of the European Judicial Network should be differentiated from that of Central Authorities.

Or. en

Amendment 78

Daniel Buda

Proposal for a regulation

Recital 44

Text proposed by the Commission

(44) Without prejudice to any requirements under its national procedural law, a requesting authority should have the discretion to choose freely between the different channels available to it for obtaining the necessary information, for example, in case of courts by applying Council Regulation (EC) No 1206/2001, by using the European Judicial Network in civil and commercial matters, in particular the Central Authorities established under this Regulation, Network judges and contact points, or in case of judicial and administrative authorities by requesting information through a specialised non-governmental organisation in this field.

Amendment

(44) Without prejudice to any requirements under its national procedural law, a requesting authority should have the discretion to choose freely between the different channels available to it for obtaining the necessary information, for example, in case of courts by applying Council Regulation (EC) No 1206/2001, by using the European Judicial Network in civil and commercial matters, in particular the Central Authorities established under this Regulation, Network judges and contact points, or in case of judicial and administrative authorities ***and in case of other authorities in the Member States with jurisdiction in the matters falling within the scope of this Regulation***, by requesting information through a specialised non-governmental organisation in this field.

Or. ro

Amendment 79
Daniel Buda

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) Where a request with supporting reasons for a report on the situation of the child, on any ongoing procedures or on decisions taken concerning the child is made, the competent authorities of the requested Member State should carry out such a request without applying any further requirements which may exist under their national law. The request should contain in particular a description of the proceedings for which the information is needed and the factual situation that gave rise to those proceedings.

Amendment

(45) Where a request with supporting reasons for a report on the situation of the child, on any ongoing procedures or on decisions ***or equivalent rulings taken or issued*** concerning the child is made, the competent authorities of the requested Member State should carry out such a request without applying any further requirements which may exist under their national law. The request should contain in particular a description of the proceedings for which the information is needed and the factual situation that gave rise to those

proceedings.

Or. ro

Amendment 80

Emil Radev

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) An authority of a Member State contemplating a decision on parental responsibility should be *entitled to request* the communication of information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

Amendment

(46) An authority of a Member State contemplating a decision on parental responsibility should be *obliged to require* the communication of information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent *or family* to care for a child or to have access to the child. *The nationality, economic and social situation or cultural and religious background of a parent should not be considered as determining elements when deciding on the capacity to care for a child.*

Or. bg

Amendment 81

Daniel Buda

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) An authority of a Member State contemplating a decision on parental responsibility should be entitled to request the communication of information relevant

Amendment

(46) An authority of a Member State contemplating a decision *or equivalent ruling* on parental responsibility should be entitled to request the communication of

to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

Or. ro

Amendment 82
Rainer Wieland

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) **An** authority of a Member State contemplating a decision on parental responsibility should be entitled to request the communication of information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

Amendment

(46) ***In special cases, an*** authority of a Member State contemplating a decision on parental responsibility should be ***absolutely*** entitled to request the communication of information relevant to the protection of the child from the authorities of another Member State if the best interests of the child so require. Depending on the circumstances, this may include information on proceedings and decisions concerning a parent or siblings of the child, or on the capacity of a parent to care for a child or to have access to the child.

Or. de

Amendment 83
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Recital 46 a (new)

Text proposed by the Commission

Amendment

(46a) *Communication between judges,*

public authorities, central authorities, professionals assisting the parents and between the parents themselves should be promoted by all means, taking into account, among others, that a decision that the child should not return may violate the basic rights of the child to the same extent as a decision to return it.

Or. en

Amendment 84

Angel Dzhambazki, Kosma Zlotowski

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) Where a person having *de facto* family ties ***as specified by the case law of the European Court of Human Rights*** with the child is residing in one Member State and wants to commence access proceedings in another Member State where the child is habitually resident, that person should be permitted to directly contact the competent authorities in the Member State where he or she is residing and obtain a finding on his or her suitability to exercise access and on the conditions under which access should be considered so that those findings can then be used in the proceedings in the Member State having jurisdiction under this Regulation. That same information should also be provided by the competent authorities of the Member State where the person seeking access is residing if such a request originates from the authorities of another Member State having jurisdiction under this Regulation.

Amendment

(47) Where a person having family ties with the child is residing in one Member State and wants to commence access proceedings in another Member State where the child is habitually resident, that person should be permitted to directly contact the competent authorities in the Member State where he or she is residing and obtain a finding on his or her suitability to exercise access and on the conditions under which access should be considered so that those findings can then be used in the proceedings in the Member State having jurisdiction under this Regulation. That same information should also be provided by the competent authorities of the Member State where the person seeking access is residing if such a request originates from the authorities of another Member State having jurisdiction under this Regulation.

Or. en

Justification

The Court of Justice of the European Union stated that even if fundamental rights, as guaranteed by the ECHR, constitute general principles of the EU's law, the latter does not constitute a legal instrument which has been formally incorporated into the legal order of the EU

Amendment 85

Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation

Recital 48 a (new)

Text proposed by the Commission

Amendment

(48a) Where the interests of the child so require, judges should communicate directly with Central Authorities or competent courts in other Member States.

Or. en

Amendment 86

Daniel Buda

Proposal for a regulation

Recital 49

Text proposed by the Commission

Amendment

(49) Where an authority of a Member State has already given a decision in matters of parental responsibility or is contemplating such a decision and the implementation is to take place in another Member State, the authority may request that the authorities of that other Member State assist in the implementation of the decision. This should apply, for instance, to decisions granting supervised access to be exercised in a Member State other than the Member State where the authority ordering access is located or involving any other accompanying measures of the competent authorities in the Member State where the

(49) Where an authority of a Member State has already given ***or issued*** a decision ***or equivalent ruling*** in matters of parental responsibility or is contemplating such a decision ***or equivalent ruling*** and the implementation is to take place in another Member State, the authority may request that the authorities of that other Member State assist in the implementation of the decision. This should apply, for instance, to decisions ***or equivalent rulings*** granting supervised access to be exercised in a Member State other than the Member State where the authority ordering access is located or involving any other

decision is to be implemented.

accompanying measures of the competent authorities in the Member State where the decision *or equivalent ruling* is to be implemented.

Or. ro

Amendment 87
Emil Radev

Proposal for a regulation
Recital 49

Text proposed by the Commission

(49) Where an authority of a Member State has already given a decision in matters of parental responsibility or is contemplating such a decision and the implementation is to take place in another Member State, the authority *may* request that the authorities of that other Member State assist in the implementation of the decision. This should apply, for instance, to decisions granting supervised access to be exercised in a Member State other than the Member State where the authority ordering access is located or involving any other accompanying measures of the competent authorities in the Member State where the decision is to be implemented.

Amendment

(49) Where an authority of a Member State has already given a decision in matters of parental responsibility or is contemplating such a decision and the implementation is to take place in another Member State, the authority *must* request that the authorities of that other Member State assist in the implementation of the decision. This should apply, for instance, to decisions granting supervised access to be exercised in a Member State other than the Member State where the authority ordering access is located or involving any other accompanying measures of the competent authorities in the Member State where the decision is to be implemented.

Or. bg

Amendment 88
Daniel Buda

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) Where an authority of a Member State considers the placement of a child in a foster family or in an institution in

Amendment

(50) Where an authority of a Member State considers the placement of a child *with family members or* in a foster family

another Member State, a consultation procedure through the Central Authorities of both Member States concerned should be carried out prior to the placement. The authority considering the placement should obtain the consent of the competent authority of the Member State in which the child should be placed before ordering the placement. As the placements are most often urgent measures required to remove a child from a situation which puts his or her best interests at risk, time is of the essence for such decisions. In order to speed up the consultation procedure, this Regulation therefore exhaustively establishes the requirements for the request and a time limit for the response from the Member State where the child should be placed. The conditions for granting or refusing consent, however, continue to be governed by the national law of the requested Member State.

or in an institution in another Member State, a consultation procedure through the Central Authorities of both Member States concerned should be carried out prior to the placement. The authority considering the placement should obtain the consent of the competent authority of the Member State in which the child should be placed before ordering the placement. As the placements are most often urgent measures required to remove a child from a situation which puts his or her best interests at risk, time is of the essence for such decisions. In order to speed up the consultation procedure, this Regulation therefore exhaustively establishes the requirements for the request and a time limit for the response from the Member State where the child should be placed. The conditions for granting or refusing consent, however, continue to be governed by the national law of the requested Member State.

Or. ro

Amendment 89
Emil Radev

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) Where an authority of a Member State considers the placement of a child in a foster family or in an institution in another Member State, a consultation procedure through the Central Authorities of both Member States concerned should be carried out prior to the placement. The authority considering the placement should obtain the consent of the competent authority of the Member State in which the child should be placed before ordering the placement. As the placements are most often urgent measures required to remove a child from a situation which puts his or her

Amendment

(50) Where an authority of a Member State considers the placement of a child **with family members**, in a foster family or in an institution in another Member State, a consultation procedure through the Central Authorities of both Member States concerned should be carried out prior to the placement. The authority considering the placement should obtain the consent of the competent authority of the Member State in which the child should be placed before ordering the placement. As the placements are most often urgent measures required to remove a child from a situation which puts

best interests at risk, time is of the essence for such decisions. In order to speed up the consultation procedure, this Regulation therefore exhaustively establishes the requirements for the request and a time limit for the response from the Member State where the child should be placed. The conditions for granting or refusing consent, however, continue to be governed by the national law of the requested Member State.

his or her best interests at risk, time is of the essence for such decisions. In order to speed up the consultation procedure, this Regulation therefore exhaustively establishes the requirements for the request and a time limit for the response from the Member State where the child should be placed. The conditions for granting or refusing consent, however, continue to be governed by the national law of the requested Member State.

Or. bg

Amendment 90
Emil Radev

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Any long-term placement of a child abroad should be in accordance with Article 24(3) of the Charter of Fundamental Rights of the EU (right to maintain personal contact with parents) and with the provisions of the United Nations Convention on the Rights of the Child, notably Articles 8, 9 and 20. In particular, when considering solutions, due regard should be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Amendment

(51) Any long-term placement of a child abroad should be in accordance with Article 24(3) of the Charter of Fundamental Rights of the EU (right to maintain personal contact with parents) and with the provisions of the United Nations Convention on the Rights of the Child, notably Articles 8, 9 and 20. In particular, when considering solutions, due regard should be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. ***In the case, in particular, of long-term placement, which is to say placement lasting more than three months, of a child abroad, the relevant authorities should always first consider the possibility of placing the child with relatives living in another country, if the child has established a relationship with those members of the family and if this is in the child's best interests.***

Or. bg

Amendment 91
Jean-Marie Cavada

Proposal for a regulation
Recital 51

Text proposed by the Commission

(51) Any long-term placement of a child abroad should be in accordance with Article 24(3) of the Charter of Fundamental Rights of the EU (right to maintain personal contact with parents) and with the provisions of the United Nations Convention on the Rights of the Child, notably Articles 8, 9 and 20. In particular, when considering solutions, due regard should be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Amendment

(51) Any long-term placement of a child abroad should be in accordance with Article 24(3) of the Charter of Fundamental Rights of the EU (right to maintain personal contact with parents) and with the provisions of the United Nations Convention on the Rights of the Child, notably Articles 8, 9 and 20. In particular, when considering solutions, due regard should be paid to the ***possibility of placing siblings in the same host family or in the same establishment, to the*** desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Or. fr

Amendment 92
Marijana Petir, Angelika Niebler

Proposal for a regulation
Recital 57 a (new)

Text proposed by the Commission

Amendment

(57a) This Regulation should be applied by the courts and other competent authorities of the Member States in compliance, in particular, with Article 9 of the Charter of Fundamental Rights of the European Union.

Or. en

Justification

Considering the area covered by this Regulation, it is particularly important to insert a reference to respect for the provision of the EU Charter on "Right to marry and right to found a family".

Amendment 93

Daniel Buda

Proposal for a regulation

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Regulation applies, whatever the nature of the judicial or administrative authority, in civil matters relating to:

Amendment

1. This Regulation applies, whatever the nature of the judicial or administrative authority ***or other authority with jurisdiction in the matters falling within the scope of this Regulation***, in civil matters relating to:

Or. ro

Amendment 94

Evelyne Gebhardt

Proposal for a regulation

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) divorce, legal separation or marriage annulment;

Amendment

(a) divorce, legal separation or marriage annulment ***and the separation or abrogation of registered partnerships, provided that the Member State of the competent court recognises this legal form***;

(This amendment applies through the text)

Or. de

Amendment 95

Daniel Buda

Proposal for a regulation
Article 1 – paragraph 2 – point d

Text proposed by the Commission

(d) the placement of the child in a foster family or in institutional care;

Amendment

(d) the placement of the child ***with family members***, in a foster family or in ***secure*** institutional care;

Or. ro

Amendment 96
Emil Radev

Proposal for a regulation
Article 1 – paragraph 2 – point d

Text proposed by the Commission

(d) the placement of the child in a foster family or in institutional care;

Amendment

(d) the placement of the child ***with family members***, in a foster family or in institutional care;

Or. bg

Amendment 97
Marijana Petir, Angelika Niebler

Proposal for a regulation
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Competence in matrimonial matters and the matters of parental responsibility within the Member States

This Regulation shall not affect the competence of the Member States to deal with matrimonial matters and the matters of parental responsibility.

Or. en

Justification

The proposal follows the approach of Article 2 of Council Regulation (EU) 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes.

Amendment 98

Daniel Buda

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

1. 'authority' means any judicial or administrative authority in the Member States with jurisdiction in the matters falling within the scope of this Regulation ;

Amendment

1. 'authority' means any judicial or administrative authority, ***and any other authority*** in the Member States with jurisdiction in the matters falling within the scope of this Regulation ;

Or. ro

Amendment 99

Evelyne Gebhardt

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

1. 'authority' means any judicial or administrative authority in the Member States with jurisdiction in the matters falling within the scope of this Regulation ;

Amendment

1. 'authority' means any judicial or administrative authority ***or court*** in the Member States with jurisdiction in the matters falling within the scope of this Regulation;

Or. de

Amendment 100

Evelyne Gebhardt

Proposal for a regulation

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'Member State' means all Member States with the exception of Denmark;

Amendment

3. 'Member State' means all Member States ***of the European Union*** with the exception of Denmark;

Or. de

Amendment 101
Daniel Buda

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

4. 'decision' means a decree, order ***or*** judgment of an authority of a Member State concerning divorce, legal separation, marriage annulment or parental responsibility;

Amendment

4. 'decision' means a decree, order, judgment ***or any equivalent ruling*** of an authority of a Member State concerning divorce, legal separation, marriage annulment or parental responsibility;

Or. ro

Amendment 102
Evelyne Gebhardt

Proposal for a regulation
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

6a. A child's 'habitual residence', in accordance with Article 8, means the place where it is integrated into the social and family environment, taking into account the child's age, length of residence, regularity of residence, the circumstances and reasons of residence, the geographical and family background and family and social conditions in the Member State concerned.

Or. de

Justification

In accordance with the case law of the European Court of Justice C-497/10 PPU No. 56

Amendment 103
Evelyne Gebhardt

Proposal for a regulation
Article 2 – paragraph 1 – point 6 b (new)

Text proposed by the Commission

Amendment

6b. ‘Habitual residence’ means, in accordance with Article 3, a person’s normal place of residence.

Or. de

Amendment 104
Evelyne Gebhardt

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

(1) In matters relating to divorce, legal separation or marriage annulment, jurisdiction shall lie with the **authorities** of the Member State:

(1) In matters relating to divorce, legal separation or marriage annulment **and the separation or abrogation of registered partnerships, provided that the Member State of the competent court recognises this legal form**, jurisdiction shall lie with the **courts** of the Member State;

Or. de

Amendment 105
Evelyne Gebhardt

Proposal for a regulation
Article 3 – paragraph 1 – point a – indent 2

Text proposed by the Commission

– the spouses were last habitually resident, insofar as one of them still resides there, or

Amendment

– the spouses were last habitually resident, insofar as one of them still resides there, or, ***failing that,***

Or. de

Justification

This and the subsequent amendments clarify the hierarchy of the competent courts.

Amendment 106
Evelyne Gebhardt

Proposal for a regulation
Article 3 – paragraph 1 – point a – indent 3

Text proposed by the Commission

– the respondent is habitually resident, or

Amendment

– the respondent is habitually resident, or ***failing that,***

Or. de

Amendment 107
Evelyne Gebhardt

Proposal for a regulation
Article 3 – paragraph 1 – point a – indent 4

Text proposed by the Commission

– in the event of a joint application, either of the spouses is habitually resident, or

Amendment

– in the event of a joint application, either of the spouses is habitually resident, or, ***failing that,***

Or. de

Amendment 108
Evelyne Gebhardt

Proposal for a regulation

Article 3 – paragraph 1 – point a – indent 5

Text proposed by the Commission

– the applicant is habitually resident if he or she resided there for at least a year immediately before the application was made, or

Amendment

– the applicant is habitually resident if he or she resided there for at least a year immediately before the application was made, or, ***failing that,***

Or. de

Amendment 109

Evelyne Gebhardt

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. The authorities of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the new habitual residence shall have jurisdiction.

Amendment

1. The authorities of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the new habitual residence shall have jurisdiction, ***unless the parties agree before the move that jurisdiction should continue to lie with the authority of the Member State where the child has hitherto been habitually resident.***

Or. de

Amendment 110

Daniel Buda

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. The authorities of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State . Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the new habitual residence shall have jurisdiction.

Amendment

1. The authorities of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State . Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the new habitual residence shall have jurisdiction, ***unless proceedings are already pending in the Member State in which the child previously resided.***

Or. ro

Amendment 111
Daniel Buda

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) If proceedings are pending in the Member State in which the child previously resided, the competent authority that was initially seised shall seise the competent authority of the Member State to which the child has lawfully moved, with a view to declining jurisdiction.

Or. ro

Amendment 112
Evelyne Gebhardt

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where custody and access proceedings are pending, the authority of the Member State of origin shall retain jurisdiction until the proceedings have concluded, unless the parties agree that the proceedings should be terminated.

Or. de

Justification

The arrangement should be such as to rule out the possibility that a child might be removed to another country in order to escape a possibly unfavourable decision by an authority.

Amendment 113
Evelyne Gebhardt

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. Paragraph 1 shall be subject to the provisions of Articles 8, 9 and 10.

(Does not affect the English version.)

Or. de

Amendment 114
Daniel Buda

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the child's former habitual residence shall retain jurisdiction , for three months following the move, to modify a decision

1. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the child's former habitual residence shall retain jurisdiction , for three months following the move, to modify a decision

on access rights given in that Member State before the child moved if the person granted access rights by the decision continues to have his or her habitual residence in the Member State of the child's former habitual residence.

or equivalent ruling on access rights given ***or issued*** in that Member State before the child moved if the person granted access rights by the decision ***or equivalent ruling*** continues to have his or her habitual residence in the Member State of the child's former habitual residence.

Or. ro

Amendment 115
Evelyne Gebhardt

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the child's former habitual residence shall retain jurisdiction, for ***three*** months following the move, to modify a decision on access rights given in that Member State before the child moved if the person granted access rights by the decision continues to have his or her habitual residence in the Member State of the child's former habitual residence.

Amendment

1. Where a child moves lawfully from one Member State to another and acquires a new habitual residence there, the authorities of the Member State of the child's former habitual residence shall retain jurisdiction, for ***six*** months following the move, to modify a decision on access rights given in that Member State before the child moved if the person granted access rights by the decision continues to have his or her habitual residence in the Member State of the child's former habitual residence.

Or. de

Amendment 116
Evelyne Gebhardt

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply if the holder of access rights referred to in paragraph 1 has accepted the jurisdiction of

Amendment

2. Paragraph 1 shall not apply if the holder of access rights referred to in paragraph 1, ***having been informed by***

the authorities of the Member State of the child's new habitual residence by participating in proceedings before those authorities without contesting their jurisdiction.

those authorities of the legal implications, has accepted the jurisdiction of the authorities of the Member State of the child's new habitual residence by participating, ***that information notwithstanding,*** in proceedings before those authorities without contesting their jurisdiction.

Or. de

Amendment 117
Evelyne Gebhardt

Proposal for a regulation
Article 9 – paragraph 1 – point b – point i

Text proposed by the Commission

(i) within one year after the holder of rights of custody has had or should have had knowledge of the whereabouts of the child, ***no*** request for return has been lodged before the competent authorities of the Member State where the child has been removed or is being retained;

Amendment

(i) within one year after the holder of rights of custody has had or should have had knowledge of the whereabouts of the child, ***and notwithstanding the fact that he or she has been informed by the authorities of the legal position regarding the need to make a request for return, no such request*** has been lodged before the competent authorities of the Member State where the child has been removed or is being retained;

Or. de

Amendment 118
Daniel Buda

Proposal for a regulation
Article 9 – paragraph 1 – point b – point v

Text proposed by the Commission

(v) a decision on custody that does not entail the return of the child has been given by the authorities of the Member State where the child was habitually resident

Amendment

(v) a decision ***or equivalent ruling*** on custody that does not entail the return of the child has been given ***or issued*** by the authorities of the Member State where

immediately before the wrongful removal or retention.

the child was habitually resident immediately before the wrongful removal or retention.

Or. ro

Amendment 119

Emil Radev

Proposal for a regulation

Article 10 – paragraph 3 – point a

Text proposed by the Commission

(a) the child has a substantial connection with that Member State, in particular by virtue of the fact that one of the holders of parental responsibility **is** habitually resident in that Member State or that the child is a national of that Member State; and

Amendment

(a) the child has a substantial connection with that Member State, in particular by virtue of the fact that one of the holders of parental responsibility ***or close relatives of the child, with whom the child is in continuous contact, are*** habitually resident in that Member State or that the child is a national of that Member State; and

Or. bg

Amendment 120

Heidi Hautala

Proposal for a regulation

Article 10 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The designated judges shall be practicing, experienced and internationally oriented family judges.

Or. en

Amendment 121

Emil Radev

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60.

Amendment

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60. ***This authority shall ensure the equal treatment of the parents involved in the proceedings, including that they are thoroughly informed without delay about all the measures in question, in a language they fully understand.***

Or. bg

Amendment 122

Daniel Buda

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60.

Amendment

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation, ***as well as other competent authorities in this matter,*** as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60.

Or. ro

Amendment 123

Rainer Wieland

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In so far as the protection of the best interests of the child so requires, the authority having taken the protective measures shall inform the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter, either directly or through the Central Authority designated pursuant to Article 60. This authority must ensure that the parents involved in the proceedings are thoroughly informed without delay about all the measures in question, in a language they understand.

Or. en

Amendment 124

Daniel Buda

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. The measures taken pursuant to paragraph 1 shall cease to apply as soon as the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter has taken the measures it considers appropriate.

2. The measures taken pursuant to paragraph 1 shall cease to apply as soon as the authority of the Member State having jurisdiction under this Regulation as to the substance of the matter has taken the measures it considers appropriate ***and accordingly notified the Member State in which the precautionary measures have been taken.***

Or. ro

Amendment 125

Emil Radev

Proposal for a regulation
Article 14 – paragraph 3 – point d

Text proposed by the Commission

(d) is the habitual residence of a holder of parental responsibility; or

Amendment

(d) is the habitual residence of a holder of parental responsibility ***or of a close relative with whom the child is in continuous contact;***
or

Or. bg

Amendment 126
Emil Radev

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of the Member States shall ensure that a child who is capable of forming his or her own views is given the genuine and effective opportunity to express those views freely during the proceedings.

Amendment

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of the Member States shall ensure that a child who is capable of forming his or her own views is given the genuine and effective opportunity to express those views freely during the proceedings, ***in accordance with the relevant national procedural rules and with the provisions of Article 12 of the UN Convention on the Rights of the Child.***

Or. bg

Amendment 127
Jean-Marie Cavada

Proposal for a regulation
Article 20 – paragraph 1

Text proposed by the Commission

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of

Amendment

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of

the Member States shall ensure that a child who is capable of forming his or her own views *is given the genuine and effective opportunity to* express those views *freely* during the proceedings.

the Member States shall ensure that a child who is capable of forming his or her own views *can actually and effectively* express those views during the proceedings. *The child must be in a position to express himself or herself, free of all pressure, in particular parental pressure, if necessary solely before the authorities in charge of the case.*

Or. fr

Amendment 128

Daniel Buda

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of the Member States shall ensure that a child who is capable of forming his or her own views is given the genuine and effective *opportunity* to express those views freely during the proceedings.

Amendment

When exercising their jurisdiction under Section 2 of this Chapter, the authorities of the Member States shall ensure that a child who is capable of forming his or her own views is given the genuine and effective *right* to express those views freely during the proceedings *regarding any problem affecting him or her under Articles 12 and 13 of the UN Convention on the Rights of the Child.*

Or. ro

Amendment 129

Daniel Buda

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

The authority shall give due weight to the child's views in accordance with his or her age and maturity and document its considerations *in* the decision.

Amendment

The authority shall give due weight to the child's views in accordance with his or her age and maturity, *taking account of the child's best interests*, and document *in*

detail its observations in the considerations of the decision or equivalent ruling. For this purpose, the child shall be given, in particular, the opportunity to be heard in the course of any judicial or administrative proceedings concerning him or her or before any Member State authorities with jurisdiction in matters falling within the scope of this Regulation, either directly or through a representative or appropriate body, in accordance with the procedural rules laid down by national law.

Or. ro

Amendment 130
Evelyne Gebhardt

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

The authority shall give due weight to the child's views in accordance with his or her age and maturity and document its considerations in the decision.

Amendment

The authority shall give due weight to the child's views in accordance with his or her age and maturity and document its considerations in the decision. *Where a child is to exercise the right to express his or her views, the following criteria at least shall be observed:*

Or. de

Amendment 131
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a) Where there is no danger that a child will be mentally harmed by exercising his or her right to express his

or her views, he or she must be heard during the proceedings if he or she is sufficiently mature. A child shall be assumed to be sufficiently mature from age 12.

Or. de

Amendment 132
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point b (new)

Text proposed by the Commission

Amendment

(b) The hearing of a child exercising his or her right to express his or her views shall, in terms of language and content, be appropriate to the child's age.

Or. de

Amendment 133
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point c (new)

Text proposed by the Commission

Amendment

(c) A child exercising his or her right to express his or her views may be heard only by a judge or by a properly trained person with proven expertise in the hearing of children.

Or. de

Amendment 134
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point d (new)

Text proposed by the Commission

Amendment

(d) A child exercising his or her right to express his or her views shall not be heard in a courtroom, but in a child-friendly setting appropriate for his or her age.

Or. de

Amendment 135
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point e (new)

Text proposed by the Commission

Amendment

(e) The hearing of a child exercising his or her right to express his or her views shall be conducted in the language of which the child has the best command.

Or. de

Amendment 136
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point f (new)

Text proposed by the Commission

Amendment

(f) A child exercising his or her right to express his or her views shall not be heard in the presence of the parties to the proceedings or their legal representatives.

Or. de

Amendment 137
Evelyne Gebhardt

Proposal for a regulation
Article 20 – subparagraph 2 – point g (new)

Text proposed by the Commission

Amendment

(g) After a child exercising his or her right to express his or her views has been heard, a record of the hearing shall be drawn up without delay and made available to the parties to the proceedings.

Or. de

Amendment 138
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

In all proceedings falling under the scope of this Regulation, authorities shall examine whether mediation would be a viable option for the parties involved.

Or. en

Amendment 139
Evelyne Gebhardt

Proposal for a regulation
Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Without prejudice to the first subparagraph, each instance shall give its decision no later than six weeks after the application or appeal is lodged with it, except where exceptional circumstances make this impossible.

Without prejudice to the first subparagraph, each instance shall give its decision no later than six weeks after the application or appeal is lodged with it, except where exceptional circumstances make this impossible **or the applicant has**

failed to produce documents necessary for the decision in time.

Or. de

Amendment 140
Jean-Marie Cavada

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. As early as possible during the proceedings, the court shall examine whether the parties are willing to engage in mediation to find, in the best interests of the child, an agreed solution, provided that this does not unduly delay the proceedings.

Amendment

2. As early as possible during the proceedings, the court shall examine whether the parties are willing to engage in mediation to find, in the best interests of the child, an agreed solution, provided that this does not unduly delay the proceedings.
The court, if it regards mediation as appropriate, shall invite the parties to have recourse thereto.

Or. fr

Amendment 141
Evelyne Gebhardt

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. As early as possible during the proceedings, the court shall examine whether the parties are willing to engage in mediation to find, in the best interests of the child, an agreed solution, provided that this does not unduly delay the proceedings.

Amendment

2. As early as possible during the proceedings, the court shall examine whether the parties are willing to engage in mediation to find, in the best interests of the child, an agreed solution, provided that this does not unduly delay the proceedings.
In that event the court shall call upon the parties to make use of mediation.

Or. de

Amendment 142
Heidi Hautala

Proposal for a regulation
Article 23 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

As a potential key referrer to mediation, judges should be assisted in familiarising themselves with mediation. Judges should also be familiar with the ways of how to integrate mediation into the set timeframe of Hague Convention Child Abduction proceedings.

Or. en

Amendment 143
Evelyne Gebhardt

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The authorities shall assist the parties in the selection of appropriate mediators and in the organisation of the mediation.

Or. de

Amendment 144
Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

Amendment

When applying Articles 12 and 13 of the 1980 Hague Convention, the court shall ensure that the child is given the opportunity to express his or her views in

When applying Articles 12 and 13 of the 1980 Hague Convention, the court shall ensure that the child is given the opportunity to express his or her views in

accordance with Article 20 of this Regulation.

accordance with Article 20 of this Regulation, *as well as in accordance with Article 12 of the UN Convention on the Rights of the Child and Article 24(1) of the Charter of Fundamental Rights of the European Union.*

Or. en

Amendment 145
Evelyne Gebhardt

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. The court may declare the decision ordering the return of the child provisionally enforceable notwithstanding any appeal, even if national law does not provide for such provisional enforceability.

Amendment

3. The court may declare the decision ordering the return of the child provisionally enforceable notwithstanding any appeal, even if national law does not provide for such provisional enforceability, *provided that provisional enforceability does not unduly affect the best interests of the child.*

Or. de

Amendment 146
Evelyne Gebhardt

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

4. Only one appeal shall be possible against the decision ordering or refusing the return of the child.

Amendment

4. Only one appeal *to a higher court* shall be possible against the decision ordering or refusing the return of the child.

Or. de

Amendment 147
Daniel Buda

Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission

1. A decision given in a Member State shall be recognised in the other Member States without any procedure being required.

Amendment

1. A decision given in a Member State ***or equivalent ruling delivered by a Member State authority with jurisdiction in the field covered by this Regulation*** shall be recognised in the other Member States without any procedure being required.

Or. ro

Amendment 148
Daniel Buda

Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

2. In particular, and without prejudice to paragraph 3, no procedure shall be required for updating the civil-status records of a Member State on the basis of a decision relating to divorce, legal separation or marriage annulment given in another Member State, and against which no further appeal lies under the law of that Member State.

Amendment

2. In particular, and without prejudice to paragraph 3, no procedure shall be required for updating the civil-status records of a Member State on the basis of a decision ***or equivalent ruling*** relating to divorce, legal separation or marriage annulment given in another Member State, and against which no further appeal lies under the law of that Member State.

Or. ro

Amendment 149
Daniel Buda

Proposal for a regulation
Article 28 – paragraph 1 – introductory part

Text proposed by the Commission

1. A party who wishes to invoke in a Member State a decision given in another Member State shall submit the following:

Amendment

1. A party who wishes to invoke in a Member State a decision given in another Member State ***or an equivalent ruling delivered by the relevant authority of another Member State*** shall submit the following:

Or. ro

Amendment 150
Daniel Buda

Proposal for a regulation
Article 28 – paragraph 1 – point a

Text proposed by the Commission

(a) a copy of the decision which satisfies the conditions necessary to establish its authenticity; and

Amendment

(a) a copy of the decision ***or equivalent ruling*** which satisfies the conditions necessary to establish its authenticity; and

Or. ro

Amendment 151
Daniel Buda

Proposal for a regulation
Article 28 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The authority before which a decision given in another Member State is invoked may, where necessary, require the party invoking it to provide, in accordance with Article 69, a translation or a transliteration of the relevant content of the certificate referred to in point (b) of paragraph 1.

Amendment

The authority before which a decision given ***or equivalent ruling delivered*** in another Member State is invoked may, where necessary, require the party invoking it to provide, in accordance with Article 69, a translation or a transliteration of the relevant content of the certificate referred to in point (b) of paragraph 1.

Or. ro

Amendment 152

Daniel Buda

Proposal for a regulation

Article 28 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The authority may require the party to provide a translation of the decision instead of a translation of the relevant content of the certificate only if it is unable to proceed without such a translation.

Amendment

The authority may require the party to provide a translation of the decision ***or equivalent ruling*** instead of a translation of the relevant content of the certificate only if it is unable to proceed without such a translation.

Or. ro

Amendment 153

Daniel Buda

Proposal for a regulation

Article 29 – paragraph 1 – introductory part

Text proposed by the Commission

The authority before which a decision given in another Member State is invoked may stay the proceedings, in whole or in part, in the following cases:

Amendment

The authority before which a decision given ***or equivalent ruling delivered*** in another Member State is invoked may stay the proceedings, in whole or in part, in the following cases:

Or. ro

Amendment 154

Daniel Buda

Proposal for a regulation

Article 29 – paragraph 1 – point a

Text proposed by the Commission

(a) the decision is challenged in the Member State of origin;

Amendment

(a) the decision ***or equivalent ruling*** is challenged in the Member State of origin;

Amendment 155

Daniel Buda

Proposal for a regulation

Article 29 – paragraph 1 – point c

Text proposed by the Commission

(c) in case of a decision on parental responsibility, proceedings to modify the decision or for a new decision on the same subject matter are pending in the Member State having jurisdiction over the substance of the matter under this Regulation.

Amendment

(c) in case of a decision ***or equivalent ruling*** on parental responsibility, proceedings to modify the decision ***or equivalent ruling*** or for a new decision ***or equivalent ruling*** on the same subject matter are pending in the Member State having jurisdiction over the substance of the matter under this Regulation.

Or. ro

Amendment 156

Daniel Buda

Proposal for a regulation

Article 30 – paragraph 1

Text proposed by the Commission

1. A decision on matters of parental responsibility in respect of a child given in a Member State which is enforceable in that Member State shall be enforceable in the other Member States without any declaration of enforceability being required.

Amendment

1. A decision ***or equivalent ruling*** on matters of parental responsibility in respect of a child given in a Member State which is enforceable in that Member State shall be enforceable in the other Member States without any declaration of enforceability being required.

Or. ro

Amendment 157

Daniel Buda

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. The procedure for the enforcement of decisions given in another Member State shall, in so far as it is not covered by this Regulation, be governed by the law of the Member State of enforcement. Without prejudice to Article 40, a decision given in a Member State which is enforceable in the Member State of enforcement shall be enforced there under the same conditions as a decision given in the Member State of enforcement.

Amendment

1. The procedure for the enforcement of decisions given ***or equivalent rulings delivered*** in another Member State shall, in so far as it is not covered by this Regulation, be governed by the law of the Member State of enforcement. Without prejudice to Article 40, a decision given ***or equivalent ruling delivered*** in a Member State which is enforceable in the Member State of enforcement shall be enforced there under the same conditions as a decision given ***or equivalent ruling delivered*** in the Member State of enforcement.

Or. ro

Amendment 158
Daniel Buda

Proposal for a regulation
Article 31 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The party seeking the enforcement of a decision given in another Member State shall not be required to have a postal address in the Member State of enforcement.

Amendment

The party seeking the enforcement of a decision given ***or equivalent ruling delivered*** in another Member State shall not be required to have a postal address in the Member State of enforcement.

Or. ro

Amendment 159
Daniel Buda

Proposal for a regulation
Article 34 – paragraph 1 – introductory part

Text proposed by the Commission

1. A party who applies for enforcement in a Member State of a decision given in another Member State shall submit the following:

Amendment

1. A party who applies for enforcement in a Member State of a decision given ***or equivalent ruling delivered*** in another Member State shall submit the following:

Or. ro

Amendment 160
Daniel Buda

Proposal for a regulation
Article 34 – paragraph 1 – point a

Text proposed by the Commission

(a) a copy of the decision which satisfies the conditions necessary to establish its authenticity; and

Amendment

(a) a copy of the decision ***or equivalent ruling*** which satisfies the conditions necessary to establish its authenticity; and

Or. ro

Amendment 161
Daniel Buda

Proposal for a regulation
Article 34 – paragraph 3

Text proposed by the Commission

3. The court may require the applicant to provide a translation of the decision only if it is unable to proceed without such a translation.

Amendment

3. The court may require the applicant to provide a translation of the decision ***or equivalent ruling*** only if it is unable to proceed without such a translation.

Or. ro

Amendment 162
Daniel Buda

Proposal for a regulation

Article 37 – paragraph 1 – introductory part

Text proposed by the Commission

On the application of any interested party, the recognition of a decision relating to a divorce, legal separation or marriage annulment shall be refused :

Amendment

On the application of any interested party, the recognition of a decision ***or equivalent ruling*** relating to a divorce, legal separation or marriage annulment shall be refused :

Or. ro

Amendment 163

Jean-Marie Cavada

Proposal for a regulation

Article 37 – paragraph 1 – point a

Text proposed by the Commission

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought; or

Amendment

(a) if such recognition is manifestly contrary to the public policy of the Member State in which recognition is sought, ***though refusal may not result in any form of discrimination prohibited by Article 21 of the Charter of Fundamental Rights of the European Union***; or

Or. fr

Amendment 164

Daniel Buda

Proposal for a regulation

Article 38 – paragraph 1 – introductory part

Text proposed by the Commission

1. On the application of any interested party, the recognition of a decision relating to parental responsibility shall be refused :

Amendment

1. On the application of any interested party, the recognition of a decision ***or equivalent ruling*** relating to parental responsibility shall be refused:

Or. ro

Amendment 165

Daniel Buda

Proposal for a regulation

Article 38 – paragraph 1 – point c

Text proposed by the Commission

(c) on the request of any person claiming that the decision infringes his or her parental responsibility, if it was given without such person having been given an opportunity to be heard; or

Amendment

(c) on the request of any person claiming that the **contested** decision **or equivalent ruling** infringes his or her parental responsibility, if it was given **or delivered** without such person having been given an opportunity to be heard; or

Or. ro

Amendment 166

Daniel Buda

Proposal for a regulation

Article 40 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The enforcement of a decision shall be refused upon the application of the person against whom enforcement is sought where one of the grounds of non-recognition referred to in Article 38(1) is found to exist.

Amendment

The enforcement of a decision **or equivalent ruling** shall be refused upon the application of the person against whom enforcement is sought where one of the grounds of non-recognition referred to in Article 38(1) is found to exist.

Or. ro

Amendment 167

Daniel Buda

Proposal for a regulation

Article 40 – paragraph 2 – introductory part

Text proposed by the Commission

2. The enforcement of a decision may

Amendment

2. The enforcement of a decision **or**

be refused upon the application of the person against whom enforcement is sought where, by virtue of a change of circumstances since the decision was given, the enforcement would be manifestly contrary to the public policy of the Member State of enforcement because one of the following grounds exists:

equivalent ruling may be refused upon the application of the person against whom enforcement is sought where, by virtue of a change of circumstances since the decision was given ***or equivalent ruling delivered***, the enforcement would be manifestly contrary to the public policy of the Member State of enforcement because one of the following grounds exists:

Or. ro

Amendment 168
Daniel Buda

Proposal for a regulation
Article 40 – paragraph 2 – point b

Text proposed by the Commission

(b) other circumstances have changed to such an extent since the decision was given that its enforcement would now be manifestly incompatible with the best interests of the child.

Amendment

(b) other circumstances have changed to such an extent since the decision was given ***or equivalent ruling delivered***, that its enforcement would now be manifestly incompatible with the best interests of the child.

Or. ro

Amendment 169
Daniel Buda

Proposal for a regulation
Article 42 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The applicant shall provide the court with a copy of the decision and, where necessary, a translation of the decision in accordance with Article 69 or a transliteration of it.

Amendment

The applicant shall provide the court with a copy of the decision ***or equivalent ruling*** and, where necessary, a translation of the decision ***or equivalent ruling*** in accordance with Article 69 or a transliteration of it.

Or. ro

Amendment 170

Daniel Buda

Proposal for a regulation

Article 51 – paragraph 1

Text proposed by the Commission

The recognition of a decision in matrimonial matters may not be refused because the law of the Member State in which such recognition is sought would not allow divorce, legal separation or marriage annulment on the same facts.

Amendment

The recognition of a decision ***or equivalent ruling*** in matrimonial matters may not be refused because the law of the Member State in which such recognition is sought would not allow divorce, legal separation or marriage annulment on the same facts.

Or. ro

Amendment 171

Axel Voss

Proposal for a regulation

Article 55 – paragraph 1

Text proposed by the Commission

Documents which have been formally drawn up or registered as authentic instruments and are enforceable in one Member State and also agreements between the parties that are enforceable in the Member State in which they were concluded shall be ***recognised*** ***and*** enforced under the same conditions as decisions.

Amendment

Documents which have been formally drawn up or registered as authentic instruments and are enforceable in one Member State and also agreements between the parties that are enforceable in the Member State in which they were concluded shall be enforced under the same conditions as decisions.

Or. de

Amendment 172

Evelyne Gebhardt

Proposal for a regulation

Article 58

Text proposed by the Commission

An applicant who, in the Member State of origin, has benefited from complete or partial legal aid or exemption from costs or expenses shall be entitled, in the procedures provided for in Article 27(3), Articles 32, 39 and 42 to benefit from the most favourable legal aid or the most extensive exemption from costs and expenses provided for by the law of the Member State of enforcement.

Amendment

An applicant who, in the Member State of origin, has benefited from complete or partial legal aid, ***aid to cover costs incurred in mediation***, or exemption from costs or expenses shall be entitled, in the procedures provided for in Article 27(3) ***and*** Articles 32, 39 and 42 to benefit from the most favourable legal aid or the most extensive exemption from costs and expenses provided for by the law of the Member State of enforcement.

Or. de

Amendment 173

Daniel Buda

Proposal for a regulation

Article 60 – paragraph 1

Text proposed by the Commission

Each Member State shall designate one or more Central Authorities to assist with the application of this Regulation in matters of parental responsibility and shall specify the geographical or functional jurisdiction of each. Where a Member State has designated more than one Central Authority, communications shall normally be sent direct to the relevant Central Authority with jurisdiction. Where a communication is sent to a Central Authority without jurisdiction, the latter shall be responsible for forwarding it to the Central Authority with jurisdiction and informing the sender accordingly.

Amendment

(1) Each Member State shall designate one or more Central Authorities to assist with the application of this Regulation in matters of parental responsibility and shall specify the geographical or functional jurisdiction of each. Where a Member State has designated more than one Central Authority, communications shall normally be sent direct to the relevant Central Authority with jurisdiction. Where a communication is sent to a Central Authority without jurisdiction, the latter shall be responsible for forwarding it to the Central Authority with jurisdiction and informing the sender accordingly.

(2) On the basis of notifications by the Member States, the Commission shall establish a list of central authorities with jurisdiction under this Regulation.

(3) The Member States shall notify the Commission of any subsequent alterations

to that list. The Commission shall amend the list accordingly.

(4) The Commission shall publish the list and any subsequent amendments in the Official Journal of the European Union.

Or. ro

Amendment 174

Kostas Chrysogonos, Jiří Maštálka

Proposal for a regulation

Article 63 – paragraph 1 – point g

Text proposed by the Commission

(g) ensure that where they initiate or facilitate the institution of court proceedings for the return of children under the 1980 Hague Convention, the file prepared in view of such proceedings, save where exceptional circumstances make this impossible, is complete within six weeks.

Amendment

(g) ensure that where they initiate or facilitate the institution of court proceedings for the return of children under the 1980 Hague Convention, the file prepared in view of such proceedings, save where exceptional circumstances make this impossible, is complete ***and submitted to the court or other competent authority*** within six weeks.

Or. en

Amendment 175

Daniel Buda

Proposal for a regulation

Article 64 – paragraph 2

Text proposed by the Commission

2. Where a decision in matters of parental responsibility is contemplated, an authority of a Member State, if the situation of the child so requires, may request any authority of another Member State which has information relevant to the protection of the child to communicate such information.

Amendment

2. Where ***the pronouncement or issuing of a*** decision in matters of parental responsibility ***or the reaching of agreement between parties with parental authority*** is contemplated, an authority of a Member State, if the situation of the child so requires, may request any authority of another Member State which has information relevant to the protection of

the child to communicate such information.

The same possibility shall be provided for the eventuality of the pronouncement or issuing of a decision regarding parental authority, the finalisation of an authentic instrument, or the conduct of any other proceedings by the authorities with the necessary jurisdiction, in so far as these decisions, instruments or proceedings are concerned with measures for the protection of the child with regard to:

(a) the designation and functions of a person or body having charge of the child's property, representing or assisting the child;

(b) measures relating to the administration, conservation or disposal of the child's property, including the designation of a person or entity to deal with management of the child's property;

(c) the need for other bodies or authorities to permit or approve acts by the child.

Or. ro

Amendment 176
Emil Radev

Proposal for a regulation
Article 64 – paragraph 2

Text proposed by the Commission

2. Where a decision in matters of parental responsibility is contemplated, an authority of a Member State, if the situation of the child so requires, **may** request any authority of another Member State which has information relevant to the protection of the child to communicate such information.

Amendment

2. Where a decision in matters of parental responsibility is contemplated, an authority of a Member State, if the situation of the child so requires, **must** request any authority of another Member State which has information relevant to the protection of the child to communicate such information.

Amendment 177

Emil Radev

Proposal for a regulation

Article 64 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where matters of parental responsibility are under scrutiny, the central authority of the Member State where the child is habitually resident must inform, without undue delay, the central authority of the Member State of which the child or one of the child's parents is a national on the existence of proceedings.

Or. bg

Amendment 178

Emil Radev

Proposal for a regulation

Article 64 – paragraph 3

Text proposed by the Commission

Amendment

3. An authority of a Member State **may** request the authorities of another Member State to assist in the implementation of decisions in matters of parental responsibility given under this Regulation, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contact on a regular basis.

3. An authority of a Member State **must** request the authorities of another Member State to assist in the implementation of decisions in matters of parental responsibility given under this Regulation, especially in securing the effective exercise of rights of access as well as of the right to maintain direct contact on a regular basis.

Or. bg

Amendment 179

Emil Radev

Proposal for a regulation
Article 64 – paragraph 5

Text proposed by the Commission

5. The authorities of a Member State where the child is not habitually resident shall, upon request of a **person** residing in that Member State who **is** seeking to obtain or to maintain access to the child, or upon request of a Central Authority of another Member State, gather information or evidence, and may make a finding, on the suitability of **that person** to exercise access and on the conditions under which access should be exercised.

Amendment

5. The authorities of a Member State where the child is not habitually resident shall, upon request of a **parent or family member** residing in that Member State who **are** seeking to obtain or to maintain access to the child, or upon request of a Central Authority of another Member State, gather information or evidence, and may make a finding, on the suitability of **those persons** to exercise access and on the conditions under which access should be exercised.

Or. bg

Amendment 180
Jean-Marie Cavada

Proposal for a regulation
Article 64 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. An authority of a Member State may request the Central Authority of another Member State to provide information on the national law of that Member State with regard to issues that fall within the scope of this Regulation and are relevant for the examination of a case under this Regulation. The authority of the Member State to which a request is submitted shall respond as soon as possible.

Or. fr

Amendment 181
Daniel Buda

Proposal for a regulation
Article 64 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(6a) The authorities of the Member State of the child's habitual residence, or of the Member State where a measure of protection has been taken, may deliver to the person having parental rights and responsibility or to the person entrusted with protection of the child's person or property, at his or her request or at the request of the authority concerned, a certificate indicating the capacity in which that person is entitled to act and the powers conferred upon him or her.

Or. ro

Amendment 182
Daniel Buda

Proposal for a regulation
Article 64 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

(6b) The capacity and powers indicated in the certificate are presumed to be vested in that person, in the absence of proof to the contrary.

Or. ro

Amendment 183
Daniel Buda

Proposal for a regulation
Article 64 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

(6c) Each Member State shall designate the authorities empowered to

issue the certificate referred to paragraph (6b).

Or. ro

Amendment 184

Daniel Buda

Proposal for a regulation

Article 64 – paragraph 6 d (new)

Text proposed by the Commission

Amendment

(6d) On the basis of notifications by the Member States, the Commission shall establish a list of central authorities empowered to issue the certificate in question.

Or. ro

Amendment 185

Daniel Buda

Proposal for a regulation

Article 65 – paragraph 1

Text proposed by the Commission

Amendment

1. Where an authority having jurisdiction under this Regulation contemplates the placement of a child in institutional care or with a foster family in another Member State, it shall first obtain the consent of the competent authority in that other Member State. To that effect it shall, through the Central Authority of its own Member State, transmit to the Central Authority of the Member State where the child is to be placed a request for consent which includes a report on the child together with the reasons for the proposed placement or provision of care.

1. Where an authority having jurisdiction under this Regulation contemplates the placement of a child ***in the care of a family member, in secure*** institutional care or with a foster family in another Member State, it shall first obtain the consent of the competent authority in that other Member State. To that effect it shall, through the Central Authority of its own Member State, transmit to the Central Authority of the Member State where the child is to be placed a request for consent which includes a report on the child together with the reasons for the proposed placement or provision of care.

Amendment 186
Emil Radev

Proposal for a regulation
Article 65 – paragraph 1

Text proposed by the Commission

1. Where an authority having jurisdiction under this Regulation contemplates the placement of a child in institutional care or with a foster family in another Member State, it shall first obtain the consent of the competent authority in that other Member State. To that effect it shall, through the Central Authority of its own Member State, transmit to the Central Authority of the Member State where the child is to be placed a request for consent which includes a report on the child together with the reasons for the proposed placement or provision of care.

Amendment

1. Where an authority having jurisdiction under this Regulation contemplates the placement of a child ***with family members***, in institutional care or with a foster family in another Member State, it shall first obtain the consent of the competent authority in that other Member State. To that effect it shall, through the Central Authority of its own Member State, transmit to the Central Authority of the Member State where the child is to be placed a request for consent which includes a report on the child together with the reasons for the proposed placement or provision of care.

Or. bg

Amendment 187
Emil Radev

Proposal for a regulation
Article 65 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall guarantee the parents and relatives of the child, regardless of their place of residence, right of regular access, except where this would jeopardise the well-being of the child.

Or. bg

Amendment 188

Emil Radev

Proposal for a regulation

Article 65 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

If the competent authority intends to send social workers to another Member State in order to determine whether a placement there is compatible with the well-being of the child, it shall inform the Member State concerned accordingly.

Or. bg

Amendment 189

Evelyne Gebhardt

Proposal for a regulation

Article 79 – paragraph 1

Text proposed by the Commission

Amendment

By [**10** years after the date of application] the Commission shall present to the European Parliament, to the Council and to the European Economic and Social Committee a report on the ***ex post*** evaluation of this Regulation supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal .

By [**five** years after the date of application] the Commission shall present to the European Parliament, to the Council and to the European Economic and Social Committee a report on the ***ex-post*** evaluation of this Regulation supported by information supplied by the Member States. The report shall be accompanied, where necessary, by a legislative proposal .

Or. de

Amendment 190

Evelyne Gebhardt

Proposal for a regulation

Article 79 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the number of cases and decisions

*in mediation procedures in matters of
parental responsibility;*

Or. de