

Maintenance obligations *

European Parliament legislative resolution of 13 December 2007 on the proposal for a Council regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (COM(2005)0649 – C6-0079/2006 – 2005/0259(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2005)0649),
 - having regard to Article 61(c) and Article 67(2) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0079/2006),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Rules 51 and 35 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Legal Affairs (A6-0468/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Citation 1

Having regard to the Treaty establishing the European Community, and in particular Article 61 *c*) **and Article 67 (2)** thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 61(*c*) thereof,

Amendment 2

Citation 3

Having regard to the opinion of the European Parliament,

deleted

Amendment 3

Citation 4 a (new)

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Amendment 4

Recital 9

(9) The scope of the Regulation should cover all maintenance obligations arising from *family relationships* or from relations which have comparable effects, in order to guarantee *an* equal treatment of maintenance creditors.

(9) The scope of *this* Regulation should cover all maintenance obligations arising from *a family relationship, parentage, marriage or affinity* or from relations which have comparable effects *under the applicable national law*, in order to guarantee equal treatment of maintenance creditors. *Such obligations should be construed in the widest possible sense as covering, in particular, all orders relating to periodic payments, payments of lump sums, transfer of ownership in property and property adjustment, fixed on the basis of the parties' respective needs and resources and being in the nature of maintenance.*

Amendment 5

Recital 10

(10) The rules on jurisdiction differ somewhat from those which are currently applicable, such as they result from Regulation (EC) *n*° 44/2001. In order to ensure as much as possible the protection of the interests of maintenance creditors and to encourage a proper administration of justice within the European Union, these rules should be clarified and cover now all the cases in which there is a sufficient link between the parties and a Member State. *The fact that the defendant is habitually resident in a non-member State of the*

(10) The rules on jurisdiction differ somewhat from those which are currently applicable, such as they result from Regulation (EC) *No* 44/2001. In order to ensure as much as possible the protection of the interests of maintenance creditors and to encourage a proper administration of justice within the European Union, these rules should be clarified and cover now all the cases in which there is a sufficient link between the parties and a Member State.

European Union should no longer be a reason for non-application of Community rules and for reference to national law.

Amendment 6
Recital 11

(11) The parties should be able to agree on the competent court, except for maintenance obligations in respect of a minor child, in order to protect the “weaker party”.

(11) The parties should be able to agree on the competent court, except for maintenance obligations in respect of a minor child ***or an adult lacking legal capacity***, in order to protect the “weaker party”.

Amendment 7
Recital 14

(14) The law of the country of the habitual residence of the maintenance creditor should ***remain predominant***, as in the existing international instruments, ***but*** the law of the forum ***should come in second rank, because it often allows, in this specific area, to resolve disputes*** in a simpler, faster and less expensive manner.

(14) The law of the country of the habitual residence of the maintenance creditor should ***be dominant***, as in the existing international instruments, ***although*** the law of the forum ***may be applied even where it is not the law of the creditor’s habitual residence, where it allows disputes in this area to be equitably resolved*** in a simpler, faster and less expensive manner ***and there is no evidence of forum shopping***.

Amendment 8
Recital 15

(15) Where ***none of the laws referred to above enables the*** creditor to obtain maintenance from the debtor, it should remain possible to apply the law of another country with which the maintenance obligation is closely ***linked. It can be***, in particular, but exclusively the country of the common nationality ***of the parties***.

(15) Where ***the law of the country of the maintenance creditor’s habitual residence or the law of the court seised does not enable the maintenance*** creditor to obtain maintenance from the debtor ***or where it would be inequitable or inappropriate to apply that law***, it should remain possible to apply the law of another country with which the maintenance obligation is closely ***connected***, in particular, but ***not*** exclusively, ***that of*** the country of the ***parties’*** common nationality.

Amendment 9
Recital 16

(16) Parties should be ***authorized***, under

(16) Parties should be ***allowed***, under certain

certain conditions, to choose applicable law. They should be able to choose the law of the forum for the purposes of particular proceedings. Moreover, they should be entitled to agree on the applicable law prior to any dispute, but only when maintenance obligations involved are other than those in respect of children or vulnerable adults; furthermore, any such choice should be limited to the designation of certain laws only.

conditions, to choose ***the*** applicable law. They should be able to choose the law of the forum for the purposes of particular proceedings. Moreover, they should be entitled to agree on the applicable law prior to any dispute, but only when ***the*** maintenance obligations involved are other than those in respect of children or vulnerable adults; furthermore, any such choice should be limited to the designation of certain laws only. ***The court seised must be satisfied that any choice of law has been agreed after obtaining independent legal advice. All choice-of-law agreements should be in writing.***

Amendment 10
Recital 17

(17) The debtor should be protected from the application of the law designated where the family relationship on which the maintenance obligation is based is not universally considered as being worthy to be honoured. It should be the case, in particular, for relations between persons related collaterally or by affinity, descendants' maintenance obligations with regard to their ascendants, or maintenance after the dissolution of marriage.

deleted

Amendment 11
Recital 18 a (new)

(18a) Special categories of data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, political party or trade union membership, sexual orientation or health should be processed only if absolutely necessary and proportionate for the purpose of a specific case and in compliance with specific safeguards.

Amendment 12
Recital 19

(19) Once a maintenance decision has been given in a Member State, it should be enforced quickly and effectively in any other Member State. *The maintenance* creditors should benefit, in particular, from direct deductions from wages and bank accounts of the debtors.

(19) ***The aim of this Regulation is to introduce procedures which produce results and are accessible, prompt, efficient, cost-effective, responsive and fair.*** Once a maintenance decision has been given in a Member State, it should be enforced quickly and effectively in any other Member State. *Maintenance* creditors should benefit, in particular, from direct deductions from wages and bank accounts of the debtors. ***Novel and effective means of enforcement of maintenance decisions should be encouraged.***

Amendment 13
Recital 22

(22) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Specifically, it seeks to ensure full respect for private and family life, personal data protection, the rights of the child and the guarantees of effective remedy before an independent and impartial court, in accordance with Articles 7, 8 24 and 47 of the Charter.

(22) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Specifically, it seeks to ensure full respect for private and family life, personal data protection, the rights of the child and the guarantees of effective remedy before an independent and impartial court, in accordance with Articles 7, 8, 24 and 47 of the Charter. ***In applying this Regulation, regard should be had to Articles 3 and 27 of the United Nations Convention on the Rights of the Child of 20 November 1989, which provide that:***

- in all actions concerning children, the best interests of the child shall be a primary consideration,

- every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development,

- the parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development, and

- States should take all appropriate measures, including the conclusion of

international agreements, to secure the recovery of maintenance for the child from the parent(s) or other responsible persons, in particular where such persons live in a State different from that of the child.

Amendment 14

Recital 23

(23) *In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹, **measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.***

¹ OJ L 184, 17.7.1999, p. 23.

(23) *The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹.*

¹ OJ L 184, 17.7.1999, p. 23. *Decision as last amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).*

Amendment 15

Recital 24

(24) This Regulation should replace the Community instruments adopted previously and covering the same field. It *shall* prevail, in addition, over other applicable international instruments applicable between the Member States in the same matters, in order to unify and simplify the legal rules in force.

(24) This Regulation should replace the Community instruments adopted previously and covering the same field. It *should* prevail, in addition, over other applicable international instruments applicable between the Member States in the same matters, in order to unify and simplify the legal rules in force. *It should take account of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.*

Amendment 16

Article 1, paragraph 1

1. This Regulation shall apply to maintenance obligations arising from family *relationships* or relationships deemed by the law applicable to such relationships as having comparable effects.

1. This Regulation shall apply to maintenance obligations arising from a family *relationship, parentage, marriage or affinity* or relationships deemed by the law applicable to such relationships as having comparable effects.

Amendment 17
Article 2, point (-1) (new)

(-1) the term 'maintenance obligation' shall mean a duty laid down by law – including in cases where the extent of the obligation and means of complying with it are established by a judicial decision or contract – to provide any form of maintenance or at least means of subsistence in respect of a person currently or previously linked to the debtor by a family relationship. Such obligations shall be construed in the widest possible sense as covering, in particular, all orders, decisions or judgments of a competent court relating to periodic payments, payments of lump sums, transfer of ownership in property and property adjustment, fixed on the basis of the parties' respective needs and resources and being in the nature of maintenance.

Amendment 18
Article 2, point 2

(2) the term 'judge' shall mean the judge or an official having powers equivalent to those of a judge in matters relating to maintenance obligations; ***deleted***

Amendment 19
Article 2, point (9)

(9) the term 'debtor' shall mean any natural person who owes or who is alleged to owe maintenance.

(9) the term 'debtor' shall mean any natural person who owes or who is alleged to owe maintenance ***or a public body which has taken over the obligation of the debtor to maintain the creditor,***

Amendment 20
Article 2, point (9 a) (new)

(9a) the term 'proceedings concerning the status of a person' shall mean any proceedings relating to divorce, legal separation, marriage annulment or

affiliation.

Amendment 21
Article 2 a (new)

Article 2a

Application to public bodies

1. Subject to paragraphs 2 and 3, this Regulation shall also apply to a public body which seeks reimbursement of maintenance benefits it has provided in lieu of the debtor, provided that the law to which it is subject provides for such reimbursement.

2. Article 3(b), (c) and (d) and Article 6 shall not apply to proceedings brought by a public body.

3. A public body seeking the enforcement of a decision shall submit, together with the application under Chapter VIII, any document necessary to prove that it fulfils the conditions laid down in paragraph 1 and that benefits have been provided for the creditor.

Amendment 22
Article 3, point (c)

c) the court which has jurisdiction to entertain proceedings concerning the status of a person if the matter relating to maintenance is ancillary to those proceedings, ***unless that jurisdiction is based solely on the nationality of one of the parties;***

c) the court which has jurisdiction to entertain proceedings concerning the status of a person if the matter relating to maintenance is ancillary to those proceedings;

Amendment 23
Article 3, point (d)

d) the court which has jurisdiction to entertain proceedings concerning parental responsibility, under *the* Regulation (EC) n° 2201/2003, if the matter relating to maintenance is ancillary to those proceedings.

d) the court which has jurisdiction to entertain proceedings concerning parental responsibility, under Regulation (EC) *No* 2201/2003, if the matter relating to maintenance is ancillary to those proceedings ***and parental-responsibility proceedings are already pending before***

that court or are brought before that court at the same time as an application for maintenance;

Amendment 24
Article 3, point (d a) (new)

(da) the court for the place where the family relationship or the relationship having comparable effects has been officially established.

Amendment 25
Article 4, paragraph 2

2. An agreement conferring jurisdiction shall be in writing. *Any communication by electronic means which provides a durable record of the agreement shall be equivalent to 'writing'.*

2. An agreement conferring jurisdiction shall be in writing.

Amendment 26
Article 4, paragraph 2 a (new)

2a. The court seised must be satisfied that any prorogation of jurisdiction has been freely agreed after obtaining independent legal advice and that it takes account of the situation of the parties at the time of the proceedings.

Amendment 27
Article 4, paragraph 4

4. This *article* shall not apply *to a dispute relating to a maintenance obligation towards* a child below the age of 18.

4. This *Article* shall not apply *if the creditor is* a child below the age of 18 *or an adult lacking legal capacity.*

Amendment 28
Article 6, point (b)

b) in the case of maintenance obligations between spouses or ex-spouses, the courts of the Member State *of was* the last common habitual residence of the spouses provided such habitual residence *had* still existed at

b) in the case of maintenance obligations between spouses or ex-spouses, the courts of the Member State *in whose territory* the last common habitual residence of the spouses *was situated*, provided *that* such habitual

least one year before the institution of the proceedings.

residence still existed at least one year before the institution of the proceedings.

Amendment 29
Article 7, paragraph 1

1. Where proceedings involving the same maintenance obligation are brought in the courts of different Member States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

1. In proceedings involving lis pendens and related proceedings, and in the case of provisional – including protective – measures, Articles 27, 28, 30 and 31 of Regulation (EC) No 44/2001 shall apply.

Amendment 30
Article 7, paragraph 2

2. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

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Amendment 31
Article 8

Article 8

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Related actions

1. Where related actions are pending in the courts of different Member States, any court other than the court first seised may stay its proceedings.

2. Where these actions are pending at first instance, any court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the court first seised has jurisdiction over the actions in question and its law permits the consolidation thereof.

3. For the purposes of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

Amendment 32

Article 9

Article 9

deleted

Seising of a court

For the purposes of this Chapter, a court shall be deemed to be seised:

(a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the plaintiff has not subsequently failed to take the steps he was required to take to have service effected on the defendant, or

(b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the plaintiff has not subsequently failed to take the steps he was required to take to have the document lodged with the court.

Amendment 33

Article 10

Article 10

deleted

Provisional, including protective, measures

Application may be made to the courts of a Member State for such provisional, including protective, measures as may be available under the law of that State, even if, under this Regulation, the courts of another Member State have jurisdiction as to the substance of the matter.

Amendment 34

Article 10, paragraph 1 a (new)

Where maintenance proceedings have been brought by way of application for interim relief, Articles 7 and 8 shall not operate so as to cause the law applicable to the application for interim relief necessarily to apply to any subsequent application for maintenance or variation of maintenance lodged in connection with substantive proceedings for divorce, annulment of

marriage or civil partnership or legal separation.

Amendment 35
Article 11

Article 11

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Examination as to jurisdiction

Where a court of a Member State is seised of a case over which it has no jurisdiction under this Regulation, it shall declare of its own motion that it has no jurisdiction.

Amendment 36
Article 13

1. *The maintenance* obligations shall be governed by the law of the country in whose territory the creditor is habitually resident.

2. The law of the forum shall apply:

a) *if the creditor is unable, by virtue of the law designated in accordance with paragraph 1, to obtain maintenance from the debtor*, or

b) where the creditor *so requests and this law is the law of the country on whose territory the debtor is habitually resident.*

3. *The laws designated in accordance with the previous paragraphs shall be disregarded when, by virtue of those laws, the creditor is unable to obtain maintenance, and if it appears from the circumstances as a whole that the maintenance obligation has a close connection with another country, in particular the country of the common nationality of the creditor and the debtor;*

1. *Maintenance* obligations shall be governed by the law of the country in whose territory the creditor is habitually resident.

2. The law of the forum shall apply:

(a) *where it is the law of the country of the creditor's habitual residence*, or

(b) where the creditor *is unable to obtain maintenance from the debtor by virtue of the law of the country of the creditor's habitual residence*, or

(c) *unless the creditor requests otherwise and the court is satisfied that he or she has obtained independent legal advice on the question, where it is the law of the country of the debtor's habitual residence.*

3. *Notwithstanding paragraph 1, the law of the forum may be applied, even where it is not the law of the country of the creditor's habitual residence, where it allows maintenance disputes to be equitably resolved in a simpler, faster and less expensive manner and there is no evidence of forum shopping.*

in such a case, the law of the country with which the maintenance obligation has a close connection shall apply.

4. Alternatively, where the law of the country of the creditor's habitual residence or the law of the forum does not enable the creditor to obtain maintenance from the debtor or where it would be inequitable or inappropriate to apply that law, the maintenance obligations shall be governed by the law of another country with which the maintenance obligation is closely connected, in particular, but not exclusively, that of the country of the common nationality of the creditor and the debtor.

Amendment 37
Article 14, point (a)

(a) at the time the court is seised, *designate expressly or otherwise in an unequivocal manner the law of the forum for as the law applicable to the maintenance obligation, for the purpose of these proceedings;*

(a) at the time the court is seised, *provide an agreement in writing designating the law of the forum in an unequivocal manner;*

Amendment 39
Article 14, point (b) (ii a) (new)

(iia) the law of the place where the family relationship or the relationship having comparable effects has been officially established;

Amendment 38
Article 14, paragraph 1 a (new)

Paragraph 1 is subject to the proviso that the court seised is satisfied that any choice of court or choice of law has been freely agreed.

Amendment 40
Article 15

Article 15

Non-application of the designated law at the request of the debtor

1. In the case of maintenance obligations other than those in respect of children and vulnerable adults and between spouses or ex-spouses, the debtor may oppose a claim by the creditor on the ground that there is no such obligation under the law of their common nationality or, in the absence of a common nationality, under the law of the country in which the debtor is habitually resident.

2. In the case of maintenance obligations between spouses or ex-spouses, the debtor may oppose a claim by the creditor on the ground that there is no such obligation under the law of the country with which the marriage has the closest connection.

deleted

Amendment 41 Article 17

1. The law applicable to a maintenance obligation shall determine in particular:

(a) whether, *to what extent* and from whom a creditor may claim maintenance;

(b) *the extent to which* the creditor may claim retroactive maintenance;

(c) the calculation and indexation of the maintenance obligation;

(d) limitation periods and time limits on the institution of proceedings;

(e) the right of a public body which has provided benefits for a creditor to obtain reimbursement of those benefits and the extent of the obligation of the debtor.

2. Whatever the contents of the applicable law, the needs of the creditor and the resources of the debtor shall be taken into account in determining the amount of maintenance.

1. The law applicable to a maintenance obligation shall determine in particular:

(a) whether, *for what period and in what amount* and from whom a creditor may claim maintenance;

(b) *for what period and in what amount* the creditor may claim retroactive maintenance;

(c) the calculation and indexation of the maintenance obligation;

(d) limitation periods and time limits on the institution of proceedings;

(e) the right of a public body which has provided benefits for a creditor to obtain reimbursement of those benefits and the extent of the obligation of the debtor.

2. Notwithstanding paragraph 1, in determining the amount of maintenance, the court seised shall take as its basis the actual and present needs of the creditor and the actual and present resources of the debtor, taking account of the latter's

reasonable needs and any other maintenance obligations to which he or she may be subject.

Amendment 42

Article 20

The application of a provision of the law designated by this Regulation may be refused only if such application is manifestly incompatible with the public policy ('ordre public') of the forum. ***However, the application of a provision of the law of a Member State designated by this Regulation shall not be refused on such a ground.***

The application of a provision of the law designated by this Regulation may be refused only if such application is manifestly incompatible with the public policy ('ordre public') of the forum.

Amendment 43

Article 21

Where a State comprises several territorial units each of which has its own rules on maintenance obligations, each territorial unit is regarded as a country for the purposes of the determination of the applicable law according to this Regulation.

A State *within which different* territorial units *have their* own rules *of law in respect of* maintenance obligations ***shall not be bound to apply this Regulation to conflicts solely between the laws of such units.***

Amendment 44

Article 22

1. In proceedings before a court, the document instituting the proceedings or an equivalent document shall be served on the defendant by one of the following methods:

a) personal service attested by an acknowledgement of receipt, including the date of receipt, which is signed by the addressee;

b) personal service attested by a document signed by the competent person who effected the service stating that the addressee has received the document or refused to receive it without any legal justification, and the date of the service;

Service of documents shall be governed by the provisions of Regulation (EC) No XXX/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

c) postal service attested by an acknowledgement of receipt including the date of receipt, which is signed and returned by the addressee;

d) service by electronic means such as fax or e-mail, attested by an acknowledgement of receipt including the date of receipt, which is signed and returned by the addressee.

2. The defendant shall have at least 30 days for the preparation of his or her defence following the day of receipt of the document served in accordance with paragraph 1.

3. The Member States shall inform the Commission within six months following the entry into force of this Regulation of the methods of service which are applicable. They shall communicate to the Commission any changes to this information.

The Commission shall make this information publicly available.

Amendment 45
Article 29

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 procedure for enforcement, to benefit from the ***most favourable*** legal aid or the most extensive exemption from costs or expenses provided for by the law of the Member State of enforcement.

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 procedure for enforcement, to benefit from legal aid ***in accordance with the provisions of Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes¹*** or the most extensive exemption from costs or expenses provided for by the law of the Member State of enforcement.

¹ OJ L 26, 31.1.2003, p. 41.

Amendments 61 and 46
Article 33

The partial or total refusal or suspension of

The partial or total refusal or suspension of

the enforcement of the decision of the court of origin may at the request of the debtor be granted only in the following cases:

- (a) the debtor asserts new circumstances or circumstances which were unknown to the court of origin when its decision was given;
- (b) the debtor has applied for the review of the decision of the court of origin in accordance with Article 24 and no new decision has yet been given;
- (c) the debtor has already satisfied his or her debt;
- (d) the claim is totally or partially extinguished by the effect of prescription or the limitation of actions;
- (e) the decision of the court of origin is irreconcilable with a decision given in the Member State of enforcement or which fulfils the conditions necessary for its recognition in the Member State of enforcement.

the enforcement of the decision of the court of origin may at the request of the debtor be granted only in the following cases:

- (a) **when** the debtor asserts new **significant relevant** circumstances or **such** circumstances **as** were not known to the court of origin when its decision was given;
- (b) **when** the debtor has applied for a review of the decision of the court of origin in accordance with Article 24 and no new decision has yet been given;
- (c) the debtor has already satisfied his or her debt;
- (d) the claim is totally or partially extinguished by the effect of prescription or the limitation of actions;
- (e) the decision of the court of origin is irreconcilable with a decision given in the Member State of enforcement or which fulfils the conditions necessary for its recognition in the Member State of enforcement.

Amendment 47
Article 34, paragraph 2

2. An order for monthly direct payment may only be given if the decision has been served to the debtor **by one of the methods referred to in Article 22**.

2. An order for monthly direct payment may only be given if the decision has been served to the debtor **in accordance with the provisions of Regulation (EC) No XXX/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters**.

Amendment 48
Article 35, paragraph 1

1. A creditor may ask the court seised as to the substance to deliver an order for temporary freezing of a bank account which is to be addressed to the bank in another Member State in which the debtor has an account. The application and the order for temporary freezing of a bank account shall be in conformity with the

1. A creditor may ask the court seised as to the substance to deliver an order for temporary freezing of a bank account **in the amount needed for the maintenance obligation to be met**; which is to be addressed to the bank in another Member State in which the debtor has an account. The application and the order for

standard form set out in the annex IV to this Regulation.

temporary freezing of a bank account shall be in conformity with the standard form set out in the annex IV to this Regulation.

Amendment 49
Article 35 a (new)

Article 35a

Other enforcement orders

The court seised may order all such other enforcement measures as are provided for in its national law which it considers appropriate.

Amendment 50
Article 38, paragraph 1

1. ***Provisions*** of Chapter VI shall apply as appropriate to the recognition and enforcement of authentic instruments and agreements between the parties that are enforceable. The competent authority of a Member State in which an authentic instrument or an agreement between the parties is enforceable shall issue, ***at the request of any interested party***, an extract of act using the standard form in Annex II of this Regulation.

1. ***The provisions*** of Chapter VI shall apply as appropriate to the recognition and enforcement of authentic instruments and agreements between the parties that are enforceable. The competent authority of a Member State in which an authentic instrument or an agreement between the parties is enforceable shall issue ***automatically to the parties*** an extract of act using the standard form in Annex II of this Regulation.

Amendments 51 to 56
Article 44

1. The central authorities shall give access to the information which can facilitate the recovery of maintenance claims under the conditions laid down in this Chapter. This information is provided in order to achieve the following objectives:

- a) to locate the debtor;
- b) to evaluate the debtor's assets, in particular the amount and the nature of his or her income;
- c) to identify the debtor's employer;
- d) to identify the bank accounts of the

1. The central authorities shall give access to the information which can facilitate ***in a specific case*** the recovery of maintenance claims under the conditions laid down in this Chapter. This information is provided in order to achieve the following objectives:

- a) to locate the ***address of the*** debtor;
- b) to evaluate the debtor's assets, in particular the amount and the nature of his or her income;
- c) to identify the debtor's employer;
- d) to identify the bank accounts of the

debtor.

2. The information referred to in paragraph 1 shall include at least the information held by the administrations and authorities which are responsible in the Member States for the following areas:

- a) taxes and duties,
- b) social security, including the social security contributions of employers,
- c) population registers,
- d) land registers,
- e) registration of the motor vehicles,
- f) central banks.

3. Access to the information referred to in this Article shall in no circumstances entail the creation of new records in a Member State.

debtor.

1a. In accordance with the proportionality principle, the determination of which personal data should be processed should be made on a case-by-case basis on the basis of the available information and should only be allowed if necessary to facilitate the enforcement of maintenance obligations.

1b. Biometrics data such as fingerprints or DNA data shall not be processed.

1c. Special categories of data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, party or trade union membership, sexual orientation or health shall be processed only if absolutely necessary and proportionate for the purpose of a specific case and in compliance with specific safeguards.

2. The information referred to in paragraph 1 shall include at least the information held by the administrations and authorities which are responsible in the Member States for the following areas:

- a) taxes and duties,
- b) social security, including the social security contributions of employers,
- c) population registers,
- d) land registers,
- e) registration of the motor vehicles,
- f) central banks.

2a. Requests for information other than that listed in paragraph 2 should be proportionate and necessary to attain the objectives listed in paragraph 1.

3. Access to the information referred to in this Article shall in no circumstances entail the creation of new records in a Member State.

3. A court shall not store information communicated in accordance with this Regulation for a longer period than the one necessary to facilitate the recovery of a maintenance claim. ***This period shall not exceed one year.***

3. A court shall not store information communicated in accordance with this Regulation for a longer period than the one necessary to facilitate the recovery of a maintenance claim.

Amendment 58
Article 48, paragraph 3 a (new)

3a. This Regulation complies with Directive 95/46/EC and requires Member States to protect the rights and freedoms of natural persons with regard to the processing of personal data, and in particular their right to privacy, in order to ensure the free flow of personal data in the Community.

Amendment 59
Article 50

Any amendment to the Annexes of this Regulation shall be adopted in accordance with the ***consultative*** procedure set out in Article 51(2).

Any amendment to the Annexes of this Regulation shall be adopted in accordance with the ***advisory*** procedure set out in Article 51(2).

Amendment 60
Article 51

1. The Commission shall be assisted by ***a*** committee, ***composed of representatives of the Member States and chaired by the representatives of the Commission.***

1. The Commission shall be assisted by ***the*** committee ***provided for by Article 75 of Regulation (EC) No 44/2001.***

2. Where reference is made to this paragraph, ***the advisory procedure laid down in*** Articles 3 of Decision 1999/468/EC shall apply, ***in compliance with Article 7 (3)*** thereof.

2. Where reference is made to this paragraph, Articles 3 ***and*** 7 of Decision 1999/468/EC shall apply, ***having regard to the provisions of Article 8*** thereof.