

**Question for written answer P-007019/2015
to the Commission**
Rule 130
Ryszard Czarnecki (ECR)

Subject: Lack of precision in Council Regulation (EC) No 2201/2003 and the German Child Welfare Office

A major element in the problems surrounding the conduct of the *Jugendamt* (the German Child Welfare Office) as regards European law is the lack of precision in the provisions of Council Regulation (EC) No 2201/2003.

The regulation can be interpreted very freely, as shown by the advice set out in the *Practice Guide for the application of the new Brussels II Regulation*.

There are two passages in the guide that give particular cause for concern: '(...) the most appropriate forum for matters of parental responsibility is the relevant court of the Member State of the habitual residence of the child. The concept of "habitual residence" (...) is not defined by the Regulation, but has to be determined by the judge in each case on the basis of factual elements. (...) Consideration by the judge on a case-by-case basis implies that whilst the adjective "habitual" tends to indicate a certain duration, it should not be excluded that a child might acquire habitual residence in a Member State the very day of the arrival, depending on the factual elements of the concrete case.'

1. Can the Commission see that it is a problem that 'habitual residence' is not defined in EU law, and that this therefore means that the legislation can be interpreted very freely?
2. Is the Commission aware of the abuses that can arise as a result of the *Jugendamt* and courts being over-zealous in assuming powers of jurisdiction in child custody cases, given the irregularities that have been occurring in this area?
3. Are there plans for legislative initiatives to clarify the provisions of the regulation so as to avoid abusive interpretations that could be detrimental to parents' interests?