

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	REVIEW OF REGULATION (EC) No 2201/2003 CONCERNING JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN MATRIMONIAL MATTERS AND THE MATTERS OF PARENTAL RESPONSIBILITY (BRUSSELS IIA REGULATION)		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG JUSTICE, UNIT A.1 CIVIL JUSTICE POLICY	DATE OF ROADMAP	10/2015
<p style="text-align: center;">This Inception Impact Assessment is provided for information purposes only and can be subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</p>			

A. Context, Subsidiarity Check and Objectives

Context
<p>Judicial cooperation in the area of family law is important in the context of cross-border mobility in Europe. A high level of mobility of citizens across Europe¹ leads to an increase in the number of international couples, as well as of international families². The number of international divorces and legal separations between spouses who have different nationalities, or spouses who have the same nationality but live in a Member State which is not their Member State of origin, has increased over the last decade; statistics shows that each year in the EU there are about 100,000 international divorces.</p> <p>It is also estimated that on an annual basis 150,000 to 245,000 children are involved in international matters relating to the attribution, exercise, restriction or termination of parental responsibility which arise independently of the marital link between the parents. In total, on an annual basis, an estimated 400,000 to 540,000 citizens in international families are involved in divorce, legal separation, proceedings in matters of parental responsibility or child abductions. This corresponds to an annual estimated 175,000 to 240,000 international families are affected by cross-border family proceedings in the EU.</p> <p>In this context, the Brussels Iia Regulation, which entered into application on 1 March 2005, addressed challenges faced by ‘international’ married and unmarried couples and their children. It established unified EU rules of conflicts of jurisdiction of the courts in matrimonial matters and matters of parental responsibility and simplified the formalities for the recognition and enforcement of judgments given by the courts of Member States, with a view to creating free movement of the judgments. In particular, the Regulation abolished all intermediary proceedings and controls (the so-called <i>exequatur</i> procedure) in the specific context of judgments on access rights and for the return of a child following an unlawful removal or retention of a child from the place of his or her habitual residence. The Regulation does not cover the underlying substantive family law matters.</p> <p>After almost 10 years of the application of the Regulation, the Commission launched its evaluation to assess whether the main objectives of the instrument, namely increasing legal certainty for citizens and ensuring efficient cross-border proceedings, were met. As a first step, it adopted on 15 April 2014³ a report on how it was applied in practice. In order to explore comprehensively the matters identified in the report and to reflect on potential improvements, the Commission carried out a 3-month public consultation during the summer of 2014. Finally, an external evaluation study assessed the effects of the Regulation in terms of its relevance, coherence, effectiveness, efficiency, and EU added value and utility.</p> <p>While the evaluation confirmed the overall usefulness of this instrument, the operational functioning of the instrument is at times hampered by a series of legal issues as well as a lack of awareness and information on the part of both citizens and legal practitioners. The efficiency of the instrument has therefore not reached its full potential...</p> <p>The ambiguity of certain provisions has been reflected in the references by national courts to the European Court of Justice, in particular the operation of the child return procedure in abduction cases.</p> <p>The review of the Regulation fits the European Union's objective of developing and maintaining a common</p>

¹ Almost 15 million citizens live in an EU country which is not their country of origin.

² According to a 2012 Eurostat study (“Merging populations. A look at marriages with foreign-born persons in European countries”, Giampaolo Lanzieri), across Europe, for the period 2008-10, on average one in 12 married persons was in a mixed marriage: bookshop.europa.eu/en/merging-populations-pbKSSF12029/.

³ COM(2014)225 final

⁴ A new start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission, Jean-Claude Juncker, Strasbourg, 15 July 2014.

judicial area where the free movement of persons is ensured and decisions taken in a Member State are recognised and enforced throughout the European Union. The July 2014 Political Guidelines⁴ indicate that judicial cooperation among EU Member States must be improved step by step, by building bridges between the different justice systems and by ensuring the mutual recognition of judgments, so that citizens can easily exercise their rights across the Union.

Issue

While the evaluation showed that the Regulation has overall effectively addressed the problems of international families facing cross-border divorce proceedings and settlement of parental responsibility issues, the following gaps and shortcomings were identified:

I. Difficulties in identifying the responsible court to hear the case

(a) The current grounds of jurisdiction do not give the possibility for spouses to choose the competent court for matrimonial matters by common agreement and thereby to organise in advance their divorce proceedings. In some instances, a spouse may have a specific interest in having the dispute heard by a given court and may therefore "rush to court". This puts increased pressure on families, including children, at a time when they are already in difficulties. It may also be detrimental to the economically weaker spouse who may not be able to afford specialised legal advice.

(b) The fact that the Regulation does not determine which court in the EU is responsible in cases where citizens have a close connection to the EU but live in a third state results in unpredictability and may exclude them from access to court in the EU. For example, in matrimonial matters, the access of spouses to an EU country court when they are of different EU nationalities and live in a non-EU country depends on the law of each EU country. In some other cases, the proceedings between the same parties on the same subject matter are pending in parallel before the courts of an EU Member State and the courts of a non-EU country, which may result in parallel proceedings and subsequently irreconcilable judgments.

(c) Parents and courts face difficulties in transferring a case to a court better placed in parental responsibility because the procedure set out in the Regulation is not sufficiently clear on some points. As a result, the proximity of the court which may be appropriate in case of family breakdown is not always ensured. Parents and courts have also difficulties with the interpretation of the conditions which enable one court to handle both parental responsibility and other child-related proceedings together.

(d) Parents face difficulties when applying rules favouring a consensual solution and avoiding that divorce and parental responsibility proceedings be dealt with by courts in different Member States. It is mainly the lack of precise conditions for determining how long a prorogation of jurisdiction should be deemed to last and which proceedings other than divorce may be used by the parents to extend jurisdiction are missing in the Regulation and raise interrogations.⁵

II. Obstacles to the free circulation of judgments

(a) The Regulation is the first Union instrument to have abolished the *exequatur* formality in civil matters in respect of certain decisions, namely certified judgments on access rights to children and certified return orders in child abduction cases. However, *exequatur* formality is still in place for custody judgments and decisions on placement of a child in another Member State. Citizens therefore suffer from the complex, lengthy and costly procedures they have to go through in order to obtain enforcement abroad. In addition, there has been confusion in specific cases whether reliance on a judgment from another EU Member State should be characterised as a question of "recognition" (which is automatic) or rather as a question of "enforcement", thus requiring a declaration of enforceability. Parents holding custody judgments are therefore asked to apply for enforcement proceedings in situations where solely recognition is sought.

(b) Secondly, contradictory situations arise where a Member State must recognise access rights under the Regulation while, at the same time, the recognition and/or enforcement of custody rights granted in the same judgment may be challenged and refused in the same Member State.

(c) In addition, in matters of parental responsibility, difficulties arise in connection with one specific ground of refusal of foreign judgments, the ground which allows refusing the judgment if the latter was given without the child having been given an opportunity to be heard. These difficulties arise due to the fact that Member States have diverging rules governing the hearing of the child which have led in some instances to the non-recognition of judgments. Such non-recognition has occurred in particular in Member States with stricter standards regarding the hearing of the child than the Member State of origin. In addition, uncertainty exists as to the question when children should be given an opportunity to be heard in child abduction cases.

⁵ C-436/13

III. Inefficient procedure for the return of an abducted child to his or her place of habitual residence

(a) Delays in return proceedings can have serious consequences for the well-being of the child and the parent-child relationship. While the child is abroad with the abducting parent, he/she is separated from his/her regular surroundings including the left-behind parent. Moreover, if too much time passes before the child is returned, it may no longer be in the child's best interest to return to the original place of habitual residence, because he/she has already created a new centre of life in the other country. On the other hand, if a child is not returned, the relationship with the left-behind parent is impaired.

(b) The evaluation identified ambiguities in the present procedure (on the time limit and the nature of the "adequate arrangements") which undermine the swift return objective.

IV. Deficiencies in the enforcement of judgments

(a) Ineffective enforcement procedures or inadequate means have led in many instances to problems faced by parents when they enforce parental responsibility decisions. In some cases, parties had to resort to procedures available for ordinary civil or commercial decisions for the enforcement of family law decisions, which do not take into account the fact that, in the area of parental responsibility, the passing of time may have irreversible consequences. For example, appeals concerning a declaration of enforceability can cause significant delays if they suspend enforcement and therefore do not guarantee an effective and expeditious enforcement of judgments.

(b) These concerns apply specifically to return orders in cases of parental child abduction; the Regulation provides that a certified return order issued by the court of origin must be enforced in the Member State of enforcement in the same way as if it had been delivered in that Member State. Often, safe and quick return of abducted children is not satisfactorily ensured.

V. Shortcomings in the cooperation between national authorities

(a) The cooperation between Central Authorities in matters of parental responsibility is essential for the effective application of the Regulation. Central Authorities must, for example, collect and exchange information on the situation of the child (for instance in connection with custody or child return proceedings), assist holders of parental responsibility to have their judgments recognised and enforced (in particular concerning access rights and the return of the child) and facilitate mediation.

The provisions on cooperation have been considered as not sufficiently specific on some points, for example with regard to the obligation to collect and exchange information on the situation of the child. Applications for information have not always been handled in a timely manner and there are questions concerning the translation of the information exchanged. The deficiencies in cooperation are for the most part visible in relation to the placement of a child in institutional care or with a foster family in another Member State, in particular in situations where the consent of the competent authority in that other Member State must be obtained prior to the adoption of the placement decision. Courts face significant delays with the procedure for consultation, which is governed by the national law of the host Member State.

(b) In addition, the unclear division of tasks and lack of cooperation mechanisms between Central Authorities and the local child welfare authorities leads to situations where the transfer of information in cross-border situations does not work as well as it should. This is a key factor in causing delays for parents and authorities mostly at the stage of enforcement of a judgment.

Subsidiarity check

The legal basis for Union action in the area is established in Article 81 TFEU. Due to the transnational nature of the problem and non-convergence of national private international law rules, neither national, bilateral nor action involving only several Member States would address the problem described.

National substantive family law rules are not affected by the proposed action. In addition, the initiative concerns only matters having cross-border implications; in particular cases involving nationals of only one Member State living in that country are not affected.

The Commission's application report, alongside the external evaluation study and the public consultations, have demonstrated that the scale of the problems addressed in the proposal for amending the Regulation is significant and that these problems concern thousands of citizens each year. In light of the sensitive nature and the transnational nature of these problems, the objectives of the amending Regulation can only be achieved at EU level. Accordingly, it would be appropriate to further refine the judicial cooperation already undertaken in the Regulation.

Main policy objectives

General objectives are:

- to ensure the smooth functioning of the internal market and free movement of persons across the EU, and

- to ensure that citizens can benefit fully from an area of freedom, security and justice.

Specific objectives are:

- to ensure that citizens in international families with a close connection to the EU are guaranteed access to court in a suitable Member State,
- to increase legal predictability, clarity and reliability for citizens involved in cross-border cases,
- to ensure that citizens do not have to provide additional administrative documents and follow additional proceedings to have judgments given in one EU Member State recognised and enforced in another Member State, and
- to safeguard the best interests of the child and the parent-child relationship.

In so doing, the initiative aims at enhancing the protection of fundamental rights (such as upholding the best interests of the child and access to court) and reducing undue delays and stress in court proceedings.

B. Option Mapping

Baseline scenario – no EU policy change

Under this option there would be no (additional) initiatives at EU level beyond the legal instrument which is already in place.

The problems that were identified with respect to the functioning of the Regulation, as outlined in the problem definition section, would therefore remain. Some questions of interpretation might be solved through guidance by the European Court of Justice in the future. However, it is uncertain if and when the relevant questions would be brought to the Court. It is also to be noted that there are some initiatives that aim to streamline the application of the Regulation, including for example regular meetings of the European Judicial Network in civil and commercial matters including the meetings of the Central Authorities. However, while such measures could foster a common understanding of the Regulation and lead to a convergence of Member States' practices in certain areas, they are not binding. It is therefore expected that their success will be slow and uncertain depending on each Member State's readiness to adopt good practices. In addition, not all legal issues identified are covered by such initiatives.

It is expected that an increasing number of persons will make use of their right to free movement in the future, which is likely to lead to an increased number of cross-border family conflicts. Therefore, the number of citizens potentially affected by the legal issues and problems identified is expected to increase thereby compounding the issues identified.

Options of improving implementation and enforcement of existing legislation or doing less/simplifying existing legislation

In addition to the current initiatives that aim to streamline the application of the Regulation, including information campaigns and regular meetings of legal professionals, including the meetings of the Central Authorities in the context of the European Judicial Network in civil and commercial matters (see above), measures such as further training, guidance or expansion of the e-Justice Portal could be proposed to foster a common understanding of the Regulation and lead to a convergence of Member States' practices in certain areas.

The proposed initiative aims at improving the implementation and enforcement of the existing Regulation through targeted amendments such as the introduction of additional measures (i.e. jurisdiction rules), simplified procedures (recognition and enforcement, return procedure) and clarification (cooperation mechanism).

Alternative policy approaches

The evaluation of the Regulation revealed several issues. For each of these issues alternative options, wherever possible, ranging from soft measures (guidelines) to legislative intervention (proposals to introduce new provisions or to modify the existing ones) should be considered:

I. Improving the rules on jurisdiction of the courts

(a) Possibility for the spouses to choose the competent court could be introduced as in the recent EU family law instruments. The envisaged choice of court would not be unlimited but would ensure a close connection to the Union (through habitual residence or nationality of the spouses).

(b) For couples who have a close link with the EU a uniform and exhaustive rule on residual jurisdiction replacing the national rules on residual jurisdiction could be introduced. In addition, to avoid that the proceedings between the same parties on the same subject matter are pending in parallel before the courts of an EU Member State

and the courts of a non-EU country, it may be useful to introduce a discretionary stay of proceedings by the courts of Member States.

(c) The transfer of a case to the court better placed could be improved to facilitate a consolidation of proceedings in appropriate cases in the alternative or in combination:

- Introducing a single point of contact in each country for all outgoing and incoming requests, for example Central Authorities;
- Allowing the court, in the specific case of child placement, to transfer the case of its own motion, without acceptance by the parties;
- Establishing a special transfer form to facilitate easy and recognisable transmission with all relevant information included.
- Guidelines for practitioners could also be developed to inform them better about the transfer mechanism.

(d) Given the clarification that the European Court of Justice has had to give on the duration of the consolidated proceedings, these guidelines could be incorporated directly in the Regulation.

Alternatively, guidelines clarifying the issue could be developed.

II. Improving the free circulation of judgments

(a) The minimum option includes a clarification in the Regulation on which acts can be performed on the basis of recognition and which ones would require a declaration of enforceability. For example, specific circumstances where this question has arisen concern requests made by guardians of children, appointed by foreign court decisions, for delivery of passports (or other travel documents) concerning these children.

Alternatively, issuing specific guidelines could be considered to clarify acts requiring the issuance of the enforceability declaration.

(b) Another measure could be to abolish the intermediary proceedings for recognition and enforcement (exequatur) in the context of those family disputes where such proceedings still remain, in particular in custody disputes. In such disputes, time is of the essence and therefore any extra delays should be avoided. At the same time, necessary safeguards should be foreseen such as those relating to the rights of the defence.

(c) In order to ensure a better circulation of judgments the problems surrounding the hearing of children should also be addressed. The following options may be considered, possibly in combination with each other:

- Inclusion in the Regulation of a reference to Article 12 UN Convention on the Rights of the Child,
- Introduction of common minimum standards regarding the question when a child must be given the opportunity to be heard,
- Introduction of common minimum standards regarding the practicalities of the hearing of the child.

III. Increasing the effectiveness and efficiency of the procedure for the return of an abducted child to his or her habitual residence

Accompanying measures could be envisaged to strengthen the existing mechanisms for the return of abducted children and ensure a swift handling of return cases. Such measures, possibly combined, could include:

- (a) the handling of cases by specialised courts,
- (b) reducing the number of appeal possibilities,
- (c) extending the possibility to grant provisional and protective measures accompanying a return order which is enforceable in another Member State,
- (d) enhancing mutual recognition of measures relating to the hearing of the child, and
- (e) guidelines and training for legal practitioners could be provided to increase the knowledge about the return procedure and thereby increase its effectiveness.

IV. Facilitating actual enforcement of judgments

(a) Given that in the child-related proceedings the passing of time can have irreversible consequences, the introduction of some minimum standards on enforcement, such as ensuring enforcement pending an appeal or the running of time periods for appeal (including clear exceptions for refusal of enforcement) should be considered.

(b) Alternatively, the enforcement issue could be addressed by the development of guidelines/a best practice manual for the enforcement procedure in particular for return orders.

V. Enhancing Cooperation between national authorities

<p>(a) The tasks of the Central Authorities could be better defined in the Regulation so to better take account of cross-border cooperation in the best interests of the child. Such tasks could include arrangements to secure the safe return of the child, providing help to discover the whereabouts of the child who has been wrongfully removed, or to secure the voluntary return of the child, and overall to facilitate swift enforcement of judgments.</p> <p>(b) It has appeared that child welfare authorities play a key role in ensuring an efficient operation of the Regulation. The inclusion of child welfare authorities in the cooperation system could contribute to the efficiency of the system and to the protection of the best interests of the child.</p> <p>Alternatively, this problem could be addressed by the introduction of guiding principles concerning the cooperation between Central Authorities and local authorities and child welfare authorities in matters of parental responsibility, or by providing training for professionals working within the concerned authorities.</p>
<p>Alternative policy instruments</p>
<p>The initiative aims at amending the existing Regulation which is directly applied in all Member States. Other legal acts such as a directive cannot achieve the objective.</p>
<p>Alternative/differentiated scope</p>
<p>It is noted that there are some initiatives that aim to streamline the application of the Regulation, including information campaigns and regular meetings of the legal professionals, including the meetings of the Central Authorities in the context of the European Judicial Network in civil and commercial matters. However, while such measures foster a common understanding of the Regulation and lead to a convergence of Member States' practices in certain areas, they are not binding and cannot address the gaps identified in the course of the evaluation.</p>
<p>Options that take account of new technological developments</p>
<p>Not applicable</p>
<p>Preliminary proportionality check</p>
<p>The proposed changes will not go beyond what is necessary in order to achieve the objectives of cross-border judicial cooperation, e.g. only common EU jurisdiction rules will ensure predictability for spouses as to which court is competent to hear their divorce or parental responsibility case in cross-border situations, facilitate cross-border recognition and enforcement of judgments, and make available a swift procedure to deter child abduction.</p>
<p style="text-align: center;">C. Data Collection and Better Regulation Instruments</p>
<p>Data collection</p>
<p>The report adopted by the Commission in April 2014 constitutes a first assessment of the application of the Regulation to date. It is based on input received from the members of the European Judicial Network in civil and commercial matters as well as on available studies, the Commission's Green Paper on applicable law and jurisdiction in divorce matters, and the work done within the framework of the Hague Conference on Private International Law on the follow-up of the 1980 and 1996 Hague Conventions on child abduction and parental responsibility. Finally, it takes into account citizen letters, complaints, petitions and case law of the Court of Justice of the European Union.</p> <p>An impact assessment prepared for the 2006 Commission proposal to amend the Regulation as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters will be taken into account for the new proposal.</p> <p>The evaluation study for the current initiative was finalised in June 2015. It examined whether the core objectives of the Regulation, i.e. mutual recognition and mutual enforcement of decisions in matrimonial matters and in matters of parental responsibility based on common rules on jurisdiction and mutual trust, minimising cases of non-recognition, and return without delay of children wrongfully removed or retained have been achieved effectively and efficiently.</p> <p>The study is available at: http://ec.europa.eu/justice/civil/document/index_en.htm</p>
<p>Consultation approach</p>
<p>Between 15 April and 18 July 2014 the Commission carried out a 3-month public consultation on the functioning of the Regulation which was addressed to the broadest general public. In response to it, there were some 200 replies submitted by stakeholders, Member States, legal practitioners, central authorities, academics, NGOs, and citizens. Whilst the replies differ in terms of the assessment of the functioning of the Regulation up to now, it is clear that stakeholders, including Member States and their judicial authorities, support the need for a carefully targeted reform of the existing Regulation. In particular, the majority of respondents strongly supports the improvement of jurisdiction rules in the Regulation through the inclusion of the possibility for spouses to choose the court responsible by common agreement (85%), the introduction of a uniform rule on residual jurisdiction</p>

(77 %) and a provision to prevent *parallel proceedings* before the courts of a Member State and the courts of a non-EU-country. All Member States, supported by the majority of legal practitioners, think that the cooperation mechanism aimed at ensuring a smooth functioning of the transfer to the court better placed should be improved. Respondents suggested improving these mechanisms by ensuring a better system of information and cooperation between the courts and the Central Authorities of the Member States and by establishing strict deadlines.

While parents are the most prominent group who sought to expand the abolition of *exequatur*, followed by judges and lawyers, some Member States indicated that *exequatur* should not be fully abolished. It was recommended that in case of abolition of *exequatur* a number of safeguards be put in place in relation to areas such as the rights of parties and the child to be heard and the proper service of documents.

In cases concerning parental child abduction, the majority of respondents with practical experience of the Regulation, including parents, think that it has not ensured the immediate return of the child within the EU. The main suggestion among the responses for improvement arose in the area of enforcement and with respect to the time limit for issuing of the return order.

A significant number of respondents considered enforcement of parental responsibility decisions which were given in another Member State as an important area for improvement. The main suggestion from legal practitioners involved the adoption of common minimum standards including a uniform enforcement procedure while Member States were sceptical towards such a solution.

Finally, parents have particularly expressed their concern as regards the cooperation between the Central Authorities whose statutory role is to support them in the cross-border child-related proceedings. Lack of cooperation and communication was a main feature of most of the respondents' answers. To resolve this, the respondents recommend agreeing on a schedule of information which can be provided under Article 55 and a better clarification of the tasks so to better support the parents. Similarly, respondents supported the inclusion of child welfare systems into the cooperation system to ensure the smooth operation of the Regulation.

The results of the consultation were published on the following website:

<https://ec.europa.eu/eusurvey/publication/BXLIIA>

Moreover, in the course of the review the Commission consulted the members of the European Judicial Network in civil and commercial matters. In the framework of the evaluation study there was an expert panel organised (July 2014) to discuss the problems with the application of the Regulation in practice. In addition, an expert group was set up to discuss the problems encountered with the application of the Regulation; the group will meet five times in the course of 2015.

The European Parliament, which closely follows the application of the Regulation, supports amendments which will make the procedures covered by the Regulation more effective, in particular with a view to proceedings concerning children.

Will an Implementation plan be established?

Yes No

An implementation plan is not established as no additional actions are needed to implement the legislative act. The initiative relies on the existing structures put in place for the current Regulation.

D. Information on the Impact Assessment Process

The work on the Impact Assessment has already started. A first Inter-Service Meeting took place in June and September 2015 to discuss the objectives of the initiative. Representatives of the following Directorates General were invited: General Secretariat, Legal Service, Migration and Home Affairs, Education and Culture, Employment and Social Affairs, and Budget. Other meetings are scheduled for October 2015.

E. Preliminary Assessment of Expected Impacts

Likely economic impacts

Citizens could save money through less litigation concerning jurisdiction questions and the abolition of *exequatur* proceedings. The latter can be associated with cost of around €1 000 or more depending on whether or not there is an appeal.

Likely social impacts

(i) The review is expected to ensure that citizens in international families are guaranteed access to court in a suitable Member State. Access to court for EU citizens living in a third state with a close connection to the EU

<p>would also be increased.</p> <p>(ii) The review should increase legal <u>predictability, clarity, and reliability</u> for citizens involved in cross-border cases through clarification and specification of existing proceedings. In addition, the incorporation of guidelines issued by the European Court of Justice may make the application of the Regulation more straightforward. The introduction of common minimum standards with respect to the hearing of the child, the enforcement of decisions on parental responsibility, and the enforcement of return orders would increase predictability because the practices would converge, and reliability, because citizens can count on the basic right that their judgments will be effectively enforced. Development of guidelines for the application of the Regulation and training for legal professionals would further enhance the knowledge of the Regulation and ease its application.</p> <p>(iii) The review will ensure that <u>citizens do not have to provide additional administrative documents and/or follow additional proceedings</u> to have judgments, authentic instruments, and agreements recognised or enforced</p> <p>The proposed measures would render the procedures on recognition and enforcement more efficient. In particular, the abolition of exequatur proceedings for all types of judgments, with certain safeguards in place, would ensure that judgments should by default be directly enforceable. Citizens would thus not need to apply for a declaration of enforceability to have their judgments enforced. As a result, cases where citizens have to go through additional proceedings or provide additional documents would be reduced.</p> <p>(iv) There would be <u>positive impacts on delays</u>. Delays could be reduced with respect to the different types and parts of the procedure. In particular, delays caused by misapplication of the Regulation and the need to seek complex legal advice can be reduced by the envisaged clarifications mentioned above.</p>
<p>Likely environmental impacts</p> <p>No impact on environment.</p>
<p>Likely impacts on simplification and/or administrative burden</p> <p>The complete abolition of exequatur (to cover custody judgments, return orders and placement decisions) would significantly decrease administrative burden for parents because there would be no need to go through additional procedures to apply for an enforceability declaration. For exequatur proceedings, costs of around EUR 1 000 are thought to be incurred per case and the proceedings may last, depending on the Member State, up to 6 months. Similarly, introduction of at least some enforcement measures would allow reducing the launching of several enforcement proceedings.</p>
<p>Likely impacts on SMEs</p> <p>No impact on SMEs.</p>
<p>Likely impacts on competitiveness and innovation</p> <p>No impact on competitiveness and innovation.</p>
<p>Likely impacts on public administrations</p> <p>The extra clarification of procedures and the cooperation mechanisms will serve to enhance mutual trust between Member States on which the efficient functioning of the Regulation depends.</p> <p>The proposed clarifications concerning cooperation, including with child welfare authorities, should streamline and improve the working methods of the Central Authorities and child welfare authorities.</p> <p>Thanks to the further abolition of exequatur, the courts would have fewer cases because there would be no need to go through additional procedures to apply for a declaration of enforceability.</p>
<p>Likely impacts on third countries, international trade or investment</p> <p>The envisaged amendments do not provide for exorbitant jurisdiction rules, which could affect relations with third States. On the other hand, the proposed introduction of a certain degree of flexibility allowing the courts of Member States to take into account proceedings pending in third States meets the requirements of a good administration of justice, allows deference to third State courts, and would eventually prevent the situation where two irreconcilable judgments may exist.</p>