



Planning the Future of Cross-Border Families: a
Path Through Coordination
EU Fam's - JUST/2014/JCOO/AG/CIVI/7729



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Max Planck Institute
LUXEMBOURG
for Procedural Law



Právoslavná akademija
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Fragmentation of recognition and enforcement regimes in EU Family Law

Prof. Dr. Dr. h.c. Thomas Pfeiffer



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Fragmentation of recognition and enforcement regimes

in EU Family Law

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Exequatur – the status quo



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Partial abolition in the Maintenance Regulation

Exequatur requirement in Brussels II bis/

Abolition proposed

Grounds for refusal of recognition



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Hearing of the child

Reference to fundamental principles of the law of the state of recognition

MS practice differs significantly

Role of the UN Children's Rights Convention

Proposal of new Art. 20 Brussels II by the Commission

Grounds for refusal of recognition



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Public policy

Procedural and substantive public policy

Few cases

Infringement of pp mostly denied

Practicioners confirm this view

Grounds for refusal of recognition



Belated service of documents

Similar or identical provision in different instruments

Experience with Brussels I / Ia

Only few decisions relating to this issue based on

EU family law instruments

Grounds for refusal of recognition



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Irreconcilability

Art. 23 (f) Bx II only applies to later judgments in the state of recognition

ECJ Mercredi: Solution based on lis alibi pendens rule in Art. 19

Example for technical difficulties resulting from fragmentation

Conclusions in relation to abolition of exequatur



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For most cases exequatur can be abolished

Provided. adequate grounds for non recognition may apply

Sensitive areas:

Public policy

Hearing of the child/Obligation to hear/
Discretion in relation to weight of hearing

National methods of enforcement



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Differences not avoidable

Sensitive: custody cases

Regulation of minimum standards?

Preliminary judgements and child abduction



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Hague Child Abduction Convention and

Enforcement of decisions of the courts of prior residence
under Brussels Ia

Practical difficulties

Technical streamlining in Commission Proposal

Effectiveness?

Preliminary judgements and child abduction



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Preliminary measures under Art. 20 Brussels Ia

Relation to Art. 21 Brussels Ia

Problem of clarity of basis for preliminary decisions

Conclusions



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Technical aspects:

Fragmentation

Differences between standards in different instruments

Procedural standards: Children / right to be heard

Substantive standards