

CJEU CASES CONCERNING THE PROVISIONS OF THE BRUSSELS IIBIS REGULATION (2201/2003)

| CASE | PROVISION(S) CONCERNED | QUESTION(S) REFERRED TO THE COURT | RULING | LINK TO THE CASE |
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| C-435/06 C. [2007] ECR I-10141 | BIIbis Articles 1(1), 1(2)(d), 64(2), 72 | <p>‘(1) (a) Does ... Regulation ... No 2201/2003 ... apply, in a case such as the present, to the enforcement of a public law decision in connection with child welfare, relating to the immediate taking into care of a child and his or her placement in a foster family outside the home, taken as a single decision, in its entirety;</p> <p>(b) or solely to that part of the decision relating to placement outside the home in a foster family, having regard to the provision in Article 1(2)(d) of the regulation;</p> <p>(c) and, in the latter case, is ... Regulation [No 2201/2003] applicable to a decision on placement contained in one on taking into care, even if the latter decision, on which the placement decision is dependent, is itself subject to legislation, based on the mutual recognition and enforcement of judgments and administrative decisions that has been harmonised in cooperation between the Member States concerned?</p> <p>(2) If the answer to Question 1(a) is in the affirmative, is it possible, given that ... Regulation [No 2201/2003] takes no account of the legislation harmonised by the Nordic Council on the recognition and enforcement of public law decisions on placement, as described above, but solely of a corresponding private law convention, nevertheless to apply this harmonised legislation based on the direct recognition and enforcement</p> | <p>‘1. Article 1(1) of 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, as amended by Council Regulation (EC) No 2116/2004 of 2 December 2004, is to be interpreted to the effect that a single decision ordering a child to be taken into care and placed outside his original home in a foster family is covered by the term 'civil matters' for the purposes of that provision, where that decision was adopted in the context of public law rules relating to child protection.</p> <p>2. Regulation No 2201/2003, as amended by Regulation No 2116/2004, is to be interpreted as meaning that harmonised national legislation on the recognition and enforcement of administrative decisions on the taking into care and placement of persons, adopted in the context of Nordic Cooperation, may not be applied to a decision to take a child into care that falls within the scope of that regulation.</p> <p>3. Subject to the factual assessment which is a matter for the national court alone, Regulation No 2201/2003, as amended by Regulation No 2116/2004, is to be interpreted as applying <i>ratione temporis</i> in a case such as that in the main proceedings.’</p> | link |

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| | | <p>of administrative decisions as a form of cooperation between administrative authorities to the taking into care of a child?</p> <p>(3) If the answer to Question 1(a) is in the affirmative and that to Question 2 is in the negative, does ... Regulation [No 2201/2003] apply <i>ratio temporis</i> to a case, taking account of Articles 72 and 64(2) of ... [R]egulation [No 2201/2003] and the abovementioned harmonised Nordic legislation on public law decisions on taking into care, if in Sweden the administrative authorities took their decision both on immediate taking into care and on placement with a foster family on 23 February 2005 and submitted their decision on immediate taking into care to the Länsrätt for confirmation on 25 February 2005, and that court accordingly confirmed the decision on 3 March 2005?'</p> | | |
| C-68/07 Kerstin Sundelind Lopez v Miguel Enrique Lopez Lizazo [2007] ECR I-10403 | BIIbis Articles 3, 6, 7 | 'Where the respondent in a case concerning divorce is neither resident in a Member State nor a citizen of a Member State, may the case be heard by a court in a Member State which does not have jurisdiction under Article 3 [of Regulation No 2201/2003], even though a court in another Member State may have jurisdiction by application of one of the rules on jurisdiction set out in Article 3?' | 'Articles 6 and 7 of 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, as amended by Council Regulation (EC) No 2116/2004 of 2 December 2004, as regards treaties with the Holy See, are to be interpreted as meaning that where, in divorce proceedings, a respondent is not habitually resident in a Member State and is not a national of a Member State, the courts of a Member State cannot base their jurisdiction to hear the petition on their national law, if the courts of another Member State have jurisdiction under Article 3 of that regulation.' | link |

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| <p>C-195/08 PPU Inga Rinau [2008] ECR I-5271</p> | <p>BIIbis Articles 11(8), 21, 21(3), 23, 24, 31(1), 40(2), 42</p> | <p>‘1. Can an interested party within the meaning of Article 21 of [the Regulation] apply for non-recognition of a judicial decision if no application has been submitted for recognition of that decision?</p> <p>2. If the answer to Question 1 is in the affirmative: how is a national court, when examining an application for non-recognition of a decision brought by a person against whom that decision is to be enforced, to apply Article 31(1) of [the Regulation], which states that ‘... [n]either the person against whom enforcement is sought, nor the child shall, at this stage of the proceedings, be entitled to make any submissions on the application’?</p> <p>3. Is the national court which has received an application by the holder of parental responsibility for non-recognition of that part of the decision of the court of the Member State of origin requiring the child staying with that person to be returned to the State of origin, and in respect of which the certificate provided for in Article 42 of [the Regulation] has been issued, required to examine that application on the basis of the provisions of Sections 1 and 2 of Chapter III of [the Regulation], as provided for in Article 40(2) of that regulation?</p> <p>4. What meaning is to be attached to the condition laid down in Article 21(3) of [the Regulation] (‘[w]ithout prejudice to Section 4 of this Chapter’)?</p> <p>5. Do the adoption of the decision to return the child and the issue of the certificate under Article 42 of [the Regulation] in the court of the Member</p> | <p>‘1. Once a non-return decision has been taken and brought to the attention of the court of origin, it is irrelevant, for the purposes of issuing the certificate provided for in Article 42 of 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, that that decision has been suspended, overturned, set aside or, in any event, has not become res judicata or has been replaced by a decision ordering return, in so far as the return of the child has not actually taken place. Since no doubt has been expressed as regards the authenticity of that certificate and since it was drawn up in accordance with the standard form set out in Annex IV to the Regulation, opposition to the recognition of the decision ordering return is not permitted and it is for the requested court only to declare the enforceability of the certified decision and to allow the immediate return of the child.</p> <p>2. Except where the procedure concerns a decision certified pursuant to Articles 11(8) and 40 to 42 of Regulation No 2201/2003, any interested party can apply for non-recognition of a judicial decision, even if no application for recognition of the decision has been submitted beforehand.</p> <p>3. Article 31(1) of Regulation No 2201/2003, in so far as it provides that neither the person against whom enforcement is sought, nor the child is, at this stage of the proceedings, entitled to make any submissions on the application, is not applicable to proceedings initiated for non-recognition of a judicial decision if no application for recognition</p> | <p>link</p> |
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| | | <p>State of origin, after a court of the Member State in which the child is wrongfully retained has taken a decision that the child be returned to his or her State of origin, comply with the objectives of and procedures under [the Regulation]?</p> <p>6. Does the prohibition in Article 24 of [the Regulation] of review of the jurisdiction of the court of the Member State of origin mean that, if it is unable to review the jurisdiction of the court of the Member State of origin and cannot identify any other grounds for non-recognition of decisions as set out in Article 23 of [the Regulation], a national court which has received an application for recognition or non-recognition of a decision of a foreign court is obliged to recognise the decision of the court of the Member State of origin ordering the child's return if the court of the Member State of origin failed to observe the procedures laid down in the Regulation when deciding on the issue of the child's return?'</p> | <p>has been lodged beforehand in respect of that decision. In such a situation, the defendant, who is seeking recognition, is entitled to make such submissions.'</p> | |
| <p>C-523/07 A. [2009] ECR I-2805</p> | <p>Bilbis Articles 1(2)(d), 8(1), 13(1), 20(1)</p> | <p>'1. (a) Does ... [the] Regulation ... apply to the enforcement, such as in the present case, of a public-law decision made in connection with child protection, as a single decision, concerning the immediate taking into care of a child and his or her placement outside the home, in its entirety,</p> <p>(b) or, having regard to the provision in Article 1(2)(d) of the regulation, only to the part of the decision relating to the placement outside the home?</p> <p>2. How is the concept of habitual residence in Article 8(1) of the regulation, like the associated Article 13(1), to be interpreted in Community law,</p> | <p>'1. Article 1(1) of 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, must be interpreted as meaning that a decision ordering that a child be immediately taken into care and placed outside his original home is covered by the term 'civil matters', for the purposes of that provision, where that decision was adopted in the context of public law rules relating to child protection.</p> <p>2. The concept of 'habitual residence' under Article 8(1) of Regulation No 2201/2003 must be</p> | <p>link</p> |

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| | | <p>bearing in mind in particular the situation in which a child has a permanent residence in one Member State but is staying in another Member State, carrying on a peripatetic life there?</p> <p>3. (a) If it is considered that the child's habitual residence is not in the latter Member State, on what conditions may an urgent measure (taking into care) nevertheless be taken in that Member State on the basis of Article 20(1) of the regulation?</p> <p>(b) Is a protective measure within the meaning of Article 20(1) of the regulation solely a measure which can be taken under national law, and are the provisions of national law concerning that measure binding when the article is applied?</p> <p>(c) Must the case, after the taking of the protective measure, be transferred of the court's own motion to the court of the Member State with jurisdiction?</p> <p>4. If the court of a Member State has no jurisdiction at all, must it dismiss the case as inadmissible or transfer it to the court of the other Member State?</p> | <p>interpreted as meaning that it corresponds to the place which reflects some degree of integration by the child in a social and family environment. To that end, in particular the duration, regularity, conditions and reasons for the stay on the territory of a Member State and the family's move to that State, the child's nationality, the place and conditions of attendance at school, linguistic knowledge and the family and social relationships of the child in that State must be taken into consideration. It is for the national court to establish the habitual residence of the child, taking account of all the circumstances specific to each individual case.</p> <p>3. A protective measure, such as the taking into care of children, may be decided by a national court under Article 20 of Regulation No 2201/2003 if the following conditions are satisfied:</p> <ul style="list-style-type: none"> –the measure must be urgent; –it must be taken in respect of persons in the Member State concerned, and –it must be provisional. <p>4. The taking of the measure and its binding nature are determined in accordance with national law. After the protective measure has been taken, the national court is not required to transfer the case to the court of another Member State having jurisdiction. However, in so far as the protection of the best interests of the child so requires, the national court which has taken provisional or protective measures must inform, directly or through the central authority designated under Article 53 of Regulation No 2201/2003, the court of another Member State having jurisdiction.</p> | |
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| | | | <p>5. Where the court of a Member State does not have jurisdiction at all, it must declare of its own motion that it has no jurisdiction, but is not required to transfer the case to another court. However, in so far as the protection of the best interests of the child so requires, the national court which has declared of its own motion that it has no jurisdiction must inform, directly or through the central authority designated under Article 53 of Regulation No 2201/2003, the court of another Member State having jurisdiction.'</p> | |
| <p>C-168/08 Hadadi v Hadadi [2009] ECR I-6871</p> | <p>BIIbis Articles 3(1), 64(4)</p> | <p>'1. Is Article 3(1)(b) [of Regulation No 2201/2003] to be interpreted as meaning that, in a situation where the spouses hold both the nationality of the State of the court seised and the nationality of another Member State of the European Union, the nationality of the State of the court seised must prevail?</p> <p>2. If the answer to Question 1 is in the negative, is that provision to be interpreted as referring, in a situation where the spouses each hold dual nationality of the same two Member States, to the more effective of the two nationalities?</p> <p>3. If the answer to Question 2 is in the negative, should it therefore be considered that that provision offers the spouses an additional option, allowing those spouses the choice of seising the courts of either of the two States of which they both hold the nationality?'</p> | <p>'1. Where the court of the Member State addressed must verify, pursuant to Article 64(4) of 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 Council Regulation (EC) No 1347/2000, whether the court of the Member State of origin of a judgment would have had jurisdiction under Article 3(1)(b) of that regulation, the latter provision precludes the court of the Member State addressed from regarding spouses who each hold the nationality both of that State and of the Member State of origin as nationals only of the Member State addressed. That court must, on the contrary, take into account the fact that the spouses also hold the nationality of the Member State of origin and that, therefore, the courts of the latter could have had jurisdiction to hear the case.</p> <p>2. Where spouses each hold the nationality of the same two Member States, Article 3(1)(b) of Regulation No 2201/2003 precludes the jurisdiction of the courts of one of those Member States from being rejected on the ground that the applicant does not put forward other links with that</p> | <p>link</p> |

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| | | | State. On the contrary, the courts of those Member States of which the spouses hold the nationality have jurisdiction under that provision and the spouses may seise the court of the Member State of their choice.' | |
| C-403/09 PPU Jasna Deticek v Maurizio Sgueglia [2009] ECR I-12193 | BIIbis Article 20 | <p>'1. Does a court of the Republic of Slovenia (a Member State of the European [Union]) have jurisdiction under Article 20 of [Regulation No 2201/2003] to take protective measures in a situation in which a court of another Member State, having by virtue of that regulation jurisdiction as to the substance, has already taken a protective measure declared enforceable in the Republic of Slovenia?</p> <p>If the answer to the first question is in the affirmative:</p> <p>2. May a Slovene court, pursuant to national law (as permitted by Article 20 of [Regulation No 2201/2003]), take a protective measure under Article 20 of [Regulation No 2201/2003] amending or rendering inoperative a final and enforceable protective measure taken by a court of another Member State which under [Regulation 2201/2003] has jurisdiction as to the substance?'</p> | 'Article 20 of 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, must be interpreted as not allowing, in circumstances such as those of the main proceedings, a court of a Member State to take a provisional measure in matters of parental responsibility granting custody of a child who is in the territory of that Member State to one parent, where a court of another Member State, which has jurisdiction under that regulation as to the substance of the dispute relating to custody of the child, has already delivered a judgment provisionally giving custody of the child to the other parent, and that judgment has been declared enforceable in the territory of the former Member State.' | link |
| C-256/09 Bianca Purrucker v Guillermo Vallés Pérez [2010] ECR I-07353 | BIIbis Articles 2(4), 20, 21 | 'Do the provisions of Article 21 et seq. of [Regulation No 2201/2003] concerning the recognition and enforcement of decisions of other Member States, in accordance with Article 2(4) of that regulation, also apply to enforceable provisional measures, within the meaning of Article 20 of that regulation, concerning the right to child custody?' | 'The provisions laid down in Article 21 et seq. of 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, do not apply to provisional measures, relating to rights of custody, falling within the scope of Article 20 of that regulation.' | link |

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| C-211/10 PPU Povse v Alpagó [2010] ECR I-6673 | BIIbis 10(b)(iv), 42(2), 47(2) | Articles 11(8), | <p>‘1. Is a “judgment on custody that does not entail the return of the child” within the meaning of Article 10(b)(iv) of [the regulation] also to be understood as meaning a provisional measure by which “parental decision-making power” and in particular the right to determine the place of residence is awarded to the abducting parent pending the final judgment on custody?</p> <p>2. Does a return order fall within the scope of Article 11(8) of [the regulation] only where the court orders return on the basis of a judgment on custody delivered by that court?</p> <p>3. If Question 1 or 2 is answered in the affirmative:</p> <p>(a) Can the lack of jurisdiction of the court of origin (Question 1) or the inapplicability of Article 11(8) of [the regulation] (Question 2) be relied on in the second State as against the enforcement of a judgment in respect of which the court of origin has issued a certificate in accordance with Article 42(2) of [the regulation]?</p> <p>(b) Or, in such circumstances, must the opposing party apply for that certificate to be revoked in the State of origin, thereby allowing enforcement in the second State to be stayed pending the decision in the State of origin?</p> <p>4. If Questions 1 and 2 or Question 3(a) are/is answered in the negative:</p> <p>Does a judgment delivered by a court in the second State and regarded as enforceable under the law of that State, by which provisional custody was awarded to the abducting parent, preclude</p> | <p>‘1. Article 10(b)(iv) of 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, must be interpreted as meaning that a provisional measure does not constitute a ‘judgment on custody that does not entail the return of the child’ within the meaning of that provision, and cannot be the basis of a transfer of jurisdiction to the courts of the Member State to which the child has been unlawfully removed.</p> <p>2. Article 11(8) of Regulation No 2201/2003 must be interpreted as meaning that a judgment of the court with jurisdiction ordering the return of the child falls within the scope of that provision, even if it is not preceded by a final judgment of that court relating to rights of custody of the child.</p> <p>3. The second subparagraph of Article 47(2) of Regulation No 2201/2003 must be interpreted as meaning that a judgment delivered subsequently by a court in the Member State of enforcement which awards provisional rights of custody and is deemed to be enforceable under the law of that State cannot preclude enforcement of a certified judgment delivered previously by the court which has jurisdiction in the Member State of origin and ordering the return of the child.</p> <p>4. Enforcement of a certified judgment cannot be refused in the Member State of enforcement because, as a result of a subsequent change of circumstances, it might be seriously detrimental to the best interests of the child. Such a change must be pleaded before the court which has jurisdiction in the Member State of origin, which should also</p> | link |
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| | | <p>the enforcement of an earlier return order made in the State of origin under Article 11(8) of [the regulation], in accordance with Article 47(2) of [the regulation], even if it would not prevent the enforcement of a return order made in the second State under the Hague Convention?</p> <p>5. If Question 4 is also answered in the negative:</p> <p>(a) Can the second State refuse to enforce a judgment in respect of which the court of origin has issued a certificate under Article 42(2) of [the regulation] if, since its delivery, the circumstances have changed in such a way that enforcement would now constitute a serious risk to the best interests of the child?</p> <p>(b) Or must the opposing party invoke that change of circumstances in the State of origin, thereby allowing enforcement in the second State to be stayed pending the judgment in the State of origin?’</p> | <p>hear any application to suspend enforcement of its judgment.’</p> | |
| <p>C-497/10 PPU Mercredi v. Chaffe [2010] ECR I-14309</p> | <p>Billbis Articles 8, 10</p> | <p>‘(1) Please clarify the appropriate test for determining the habitual residence of a child for the purpose of:</p> <p>–Article 8 of ... Regulation [No] 2201/2003; –Article 10 of ... Regulation [No] 2201/2003.</p> <p>(2) Is a court an “institution or other body” to which rights of custody can be attributed for the purposes of the provisions of ... Regulation [No] 2201/2003?</p> <p>(3) Does Article 10 have a continuing application after the courts of the requested Member State have rejected an application for the return of the</p> | <p>‘1. The concept of ‘habitual residence’, for the purposes of Articles 8 and 10 of 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, must be interpreted as meaning that such residence corresponds to the place which reflects some degree of integration by the child in a social and family environment. To that end, where the situation concerned is that of an infant who has been staying with her mother only a few days in a Member State – other than that of her habitual residence – to which she has been removed, the</p> | <p>link</p> |

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| | | <p>child under [the 1980 Hague Convention] on the basis that Articles 3 and 5 are not made out?</p> <p>In particular, how should a conflict between a determination of the requested State that the requirements of Articles 3 and 5 of [the 1980 Hague Convention] are not met and a determination of the requesting State that the requirements of Articles 3 and 5 are met be resolved?’</p> | <p>factors which must be taken into consideration include, first, the duration, regularity, conditions and reasons for the stay in the territory of that Member State and for the mother’s move to that State and, second, with particular reference to the child’s age, the mother’s geographic and family origins and the family and social connections which the mother and child have with that Member State. It is for the national court to establish the habitual residence of the child, taking account of all the circumstances of fact specific to each individual case.</p> <p>If the application of the abovementioned tests were, in the case in the main proceedings, to lead to the conclusion that the child’s habitual residence cannot be established, which court has jurisdiction would have to be determined on the basis of the criterion of the child’s presence, under Article 13 of the Regulation.</p> <p>2. Judgments of a court of a Member State which refuse to order the prompt return of a child under the Hague Convention of 25 October 1980 on the civil aspects of international child abduction to the jurisdiction of a court of another Member State and which concern parental responsibility for that child have no effect on judgments which have to be delivered in that other Member State in proceedings relating to parental responsibility which were brought earlier and are still pending in that other Member State.’</p> | |
| <p>C-400/10 PPU McB [2010] ECR I-08965</p> | <p>BIIbis Article 2(11)</p> | <p>‘Does [Regulation No 2201/2003], whether interpreted pursuant to Article 7 of [the Charter] or otherwise, preclude a Member State from requiring by its law that the father of a child who is not married to the mother shall have obtained</p> | <p>‘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</p> | <p>link</p> |

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| | | <p>an order of a court of competent jurisdiction granting him custody in order to qualify as having ‘custody rights’ which render the removal of that child from its country of habitual residence wrongful for the purposes of Article 2(11) of that Regulation?’</p> | <p>1347/2000, must be interpreted as not precluding a Member State from providing by its law that the acquisition of rights of custody by a child’s father, where he is not married to the child’s mother, is dependent on the father’s obtaining a judgment from a national court with jurisdiction awarding such rights to him, on the basis of which the removal of the child by its mother or the retention of that child may be considered wrongful, within the meaning of Article 2(11) of that regulation.’</p> | |
| <p>C-296/10 Bianca Purrucker v Guillermo Vallés Pérez II [2010] ECR I-11163</p> | <p>BIIbis Articles 19(2), 20, 21</p> | <p>‘(1) Is Article 19(2) of Regulation [No 2201/2003] applicable if a court of a Member State first seised by one party to resolve matters of parental responsibility is called upon to grant only provisional measures and a court of another Member State subsequently seised by the other party of an action with the same object is called upon to rule on the substance of the matter?</p> <p>(2) Is [Article 19(2)] also applicable if a ruling in the isolated proceedings for provisional measures in one Member State is not capable of recognition in another Member State within the meaning of Article 21 of Regulation No 2201/2003?</p> <p>(3) Is the seising of a court in a Member State for isolated proceedings for provisional measures to be equated to seising as to the substance of the matter within the meaning of Article 19(2) of Regulation No 2201/2003 if under the national rules of procedure of that State a subsequent action to rule on the substance of the matter must be brought before that court within a specified period in order to avoid adverse procedural consequences?’</p> | <p>‘The provisions of Article 19(2) of 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, are not applicable where a court of a Member State first seised for the purpose of obtaining measures in matters of parental responsibility is seised only for the purpose of its granting provisional measures within the meaning of Article 20 of that regulation and where a court of another Member State which has jurisdiction as to the substance of the matter within the meaning of the same regulation is seised second of an action directed at obtaining the same measures, whether on a provisional basis or as final measures.</p> <p>The fact that a court of a Member State is seised in the context of proceedings to obtain interim relief or that a judgment is handed down in the context of such proceedings and there is nothing in the action brought or the judgment handed down which indicates that the court seised for the interim measures has jurisdiction within the meaning of Regulation No 2201/2003 does not necessarily preclude the possibility that, as may be provided</p> | <p>link</p> |

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| | | | <p>for by the national law of that Member State, there may be an action as to the substance of the matter which is linked to the action to obtain interim measures and in which there is evidence to demonstrate that the court seised has jurisdiction within the meaning of that regulation.</p> <p>Where, notwithstanding efforts made by the court second seised to obtain information by enquiry of the party claiming lis pendens, the court first seised and the central authority, the court second seised lacks any evidence which enables it to determine the cause of action of proceedings brought before another court and which serves, in particular, to demonstrate the jurisdiction of that court in accordance with Regulation No 2201/2003, and where, because of specific circumstances, the interest of the child requires the handing down of a judgment which may be recognised in Member States other than that of the court second seised, it is the duty of that court, after the expiry of a reasonable period in which answers to the enquiries made are awaited, to proceed with consideration of the action brought before it. The duration of that reasonable period must take into account the best interests of the child in the specific circumstances of the proceedings concerned.'</p> | |
| <p>C-491/10 PPU Aguirre Zarraga v Pelz [2011] ECR I-14247</p> | <p>BIIbis Article 42</p> | <p>'1. Where the judgment to be enforced issued in the Member State of origin contains a serious infringement of fundamental rights, does the court of the Member State of enforcement exceptionally itself enjoy a power of review, pursuant to an interpretation of Article 42 of [Regulation No 2201/2003] in conformity with the Charter of Fundamental Rights?</p> | <p>'In circumstances such as those of the main proceedings, the court with jurisdiction in the Member State of enforcement cannot oppose the enforcement of a certified judgment, ordering the return of a child who has been wrongfully removed, on the ground that the court of the Member State of origin which handed down that judgment may have infringed Article 42 of Council Regulation (EC) No 2201/2003 of 27 November 2003</p> | <p>link</p> |

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| | | <p>2. Is the court of the Member State of enforcement obliged to enforce the judgment of the court of the Member State of origin notwithstanding the fact that, according to the case-file, the certificate issued by the court of the Member State of origin under Article 42 of [Regulation No 2201/2003] contains a declaration which is manifestly inaccurate?’</p> | <p>concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, interpreted in accordance with Article 24 of the Charter of Fundamental Rights of the European Union, since the assessment of whether there is such an infringement falls exclusively within the jurisdiction of the courts of the Member State of origin.’</p> | |
| <p>C-92/12 PPU Health Service Executive [2012] ECLI:EU:C:2012:255</p> | <p>BIIbis Article 56</p> | <p>‘(1) Does a judgment which provides for the detention of a child for a specified time in another Member State in an institution providing therapeutic and educational care come within the material scope of [the Regulation]?</p> <p>(2) If the answer to Question one is yes, what obligations, if any, arise out of Article 56 of [the Regulation] as to the nature of the consultation and consent mechanism to ensure the effective protection of a child who is to be so detained?</p> <p>(3) Where a court of a Member State has contemplated the placement of a child for a specified time in a residential care institution in another Member State and has obtained the consent of that State in accordance with Article 56 of [the Regulation], must the judgment of the court directing the placement of a child for a specified time in a residential care institution situate in another Member State be recognised and/or declared enforceable in that other Member State as a precondition to the placement being effected?</p> <p>(4) Does a judgment of the court directing the placement of the child for a specified time in a</p> | <p>‘1. A judgment of a court of a Member State which orders the placement of child in a secure institution providing therapeutic and educational care situated in another Member State and which entails that, for her own protection, the child is deprived of her liberty for a specified period, falls within the material scope of Council Regulation 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.</p> <p>2. The consent referred to in Article 56(2) of Regulation No 2201/2003 must be given, prior to the making of the judgment on placement of a child, by a competent authority, governed by public law. The fact that the institution where the child is to be placed gives its consent is not sufficient. In circumstances such as those of the main proceedings, where a court of a Member State which made the judgment on placement is uncertain whether a consent was validly given in the requested Member State, because it was not possible to identify with certainty the competent authority in the latter State, an irregularity may be corrected in order to ensure that the requirement</p> | <p>link</p> |

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| | | <p>residential care institution situate in another Member State and which has been consented to by that Member State in accordance with Article 56 of [the Regulation] have any legal effect in that other Member State prior to the grant of a declaration of recognition and/or enforceability upon the completion of the proceedings seeking such declaration of recognition and/or enforceability?</p> <p>(5) Where a judgment of the court directing the placement of the child for a specified time in a residential care institution situate in another Member State under Article 56 of [the Regulation] is renewed for a further specified time, must the Article 56 consent of the other Member State be obtained upon the occasion of each renewal?</p> <p>(6) Where a judgment of the court directing the placement of the child for a specified time in a residential care institution situate in another Member State under Article 56 of [the Regulation] is renewed for a further specified time must the judgment be recognised and/or enforced in that other Member State upon the occasion of each renewal?</p> | <p>of consent imposed by Article 56 of the Regulation No 2201/2003 has been fully complied with.</p> <p>3. Regulation No 2201/2003 must be interpreted as meaning that a judgment of a court of a Member State which orders the compulsory placement of a child in a secure care institution situated in another Member State must, before its enforcement in the requested Member State, be declared to be enforceable in that Member State. In order not to deprive that regulation of its effectiveness, the decision of the court of the requested Member State on the application for a declaration of enforceability must be made with particular expedition and appeals brought against such a decision of the court of the requested Member State must not have a suspensive effect.</p> <p>4. Where a consent to placement under Article 56(2) of Regulation No 2201/2003 has been given for a specified period of time, that consent does not apply to orders which are intended to extend the duration of the placement. In such circumstances, an application for a new consent must be made. A judgment on placement made in a Member State, declared to be enforceable in another Member State, can be enforced in that other Member State only for the period stated in the judgment on placement.'</p> | |
| <p>C-4/14 Bohez v Wiertz [2014] ECLI:EU:C:2015:563</p> | <p>BIIbis Article 47(1)</p> | <p>'(1) Is Article 1(2) of ... Regulation [No 44/2001] to be interpreted as meaning that cases concerning the enforcement of a penalty payment (astreinte) imposed to ensure compliance with the principal obligation in a case concerning child custody or rights of access are outside the scope of the regulation?</p> | <p>'1. Article 1 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that that regulation does not apply to the enforcement in a Member State of a penalty payment which is imposed in a judgment, given in another Member State, concerning rights of</p> | <p>link</p> |

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| | <p>(2) If the cases set out in the preceding paragraph fall within the scope of ... Regulation [No 44/2001], is Article 49 of [that] regulation to be interpreted as meaning that a periodic penalty payment which is enforceable as such in the amount stated in the State in which judgment was given, but whose final amount may be changed on the application or arguments of the party subject to the penalty payment, is enforceable in a[nother] Member State only if its amount has been separately determined in the State in which judgment was given?</p> <p>(3) If cases such as those identified above are outside the scope of ... Regulation [No 44/2001], is Article 47(1) of ... Regulation [No 2201/2003] to be interpreted as meaning that penalties and protective measures concerning child custody and rights of access fall within the enforcement procedure referred to in that provision which is governed by the legislation of the Member State of enforcement, or can they form part of the judgment concerning child custody and rights of access which is enforceable in another Member State under ... Regulation [No 2201/2003]?</p> <p>(4) When enforcement of a penalty payment is sought in another Member State, is it a requirement that the amount of the penalty payment to be enforced has been finally determined separately in the Member State in which judgment was given, even if ... Regulation [No 44/2001] does not apply in the enforcement proceedings?</p> <p>(5) If a periodic penalty payment imposed as a means to ensure compliance with rights of access is enforceable in another Member State</p> | <p>custody and rights of access in order to ensure that the holder of the rights of custody complies with those rights of access.</p> <p>2. Recovery of a penalty payment — a penalty which the court of the Member State of origin that gave judgment on the merits with regard to rights of access has imposed in order to ensure the effectiveness of those rights — forms part of the same scheme of enforcement as the judgment concerning the rights of access that the penalty safeguards and the latter must therefore be declared enforceable in accordance with the rules laid down by 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.</p> <p>3. In the context of Regulation No 2201/2003, a foreign judgment which orders a periodic penalty payment is enforceable in the Member State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the Member State of origin.'</p> | |
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| | | <p>without the amount of the penalty payment to be enforced having separately been finally determined:</p> <p>(a) does the enforcement of the penalty payment nevertheless require a review of whether the failure to comply with rights of access was based on obstacles which it was essential to take into consideration on account of the rights of children, and</p> <p>(b) which court has jurisdiction to examine such factors, more specifically,</p> <p>(i) is the jurisdiction of the court of the State of enforcement always limited solely to an examination of whether the alleged failure to comply with rights of access has occurred for reasons which are expressly set out in the judgment in the main proceedings, or</p> <p>(ii) does it follow from the protection of the rights of children in the Charter of Fundamental Rights of the European Union that the court of the State of enforcement has a more extensive right or obligation to examine whether the failure to comply with rights of access was based on grounds which it was essential to take into consideration in order to safeguard the rights of children?’</p> | | |
| <p>C-376/14 PPU C. v M. [2014] ECLI:EU:C:2014:2268</p> | <p>BIIbis Articles 2(11), 11</p> | <p>‘(1) Does the existence of the French proceedings relating to the custody of the child preclude, in the circumstances of this case, the establishment of habitual residence of the child in Ireland?’</p> | <p>‘1. Articles 2(11) and 11 of 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, must be interpreted as meaning that where the removal of a child has</p> | <p>link</p> |

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| | | <p>(2) Does either the father or the French courts continue to maintain custody rights in relation to the child so as to render wrongful the retention of the child in Ireland?</p> <p>(3) Are the Irish courts entitled to consider the question of habitual residence of the child in the circumstances where she has resided in Ireland since July 2012, at which time her removal to Ireland was not in breach of French law?’</p> | <p>taken place in accordance with a judgment which was provisionally enforceable and which was thereafter overturned by a judgment which fixed the residence of the child at the home of the parent living in the Member State of origin, the court of the Member State to which the child was removed, seised of an application for the return of the child, must determine, by undertaking an assessment of all the circumstances of fact specific to the individual case, whether the child was still habitually resident in the Member State of origin immediately before the alleged wrongful retention. As part of that assessment, it is important that account be taken of the fact that the judgment authorising the removal could be provisionally enforced and that an appeal had been brought against it.</p> <p>2. Regulation No 2201/2003 must be interpreted as meaning that, in circumstances where the removal of a child has taken place in accordance with a court judgment which was provisionally enforceable and which was thereafter overturned by a court judgment fixing the child’s residence at the home of the parent living in the Member State of origin, the failure to return the child to that Member State following the latter judgment is wrongful and Article 11 of the Regulation is applicable if it is held that the child was still habitually resident in that Member State immediately before the retention. If it is held, conversely, that the child was at that time no longer habitually resident in the Member State of origin, a decision dismissing the application for return based on that provision is without prejudice to the application of the rules established in Chapter III of the Regulation relating to the recognition and</p> | |
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| | | | enforcement of judgments given in a Member State.' | |
| C-436/13 E. v B. [2014] ECLI:EU:C:2014:2246 | BIIbis Articles 8, 12, 15 | <p>'(1) Where there has been a prorogation of the jurisdiction of a court of a Member State in relation to matters of parental responsibility pursuant to Article 12(3) of [Regulation No 2201/2003], does that prorogation of jurisdiction only continue until there has been a final judgment in those proceedings or does it continue even after the making of a final judgment?</p> <p>(2) Does Article 15 of [Regulation No 2201/2003] allow the courts of a Member State to transfer a jurisdiction in circumstances where there are no current proceedings concerning the child?'</p> | 'Jurisdiction in matters of parental responsibility which has been prorogued, under Article 12(3) of 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, in favour of a court of a Member State before which proceedings have been brought by mutual agreement by the holders of parental responsibility ceases following a final judgment in those proceedings.' | link |
| C-656/13 L v M [2014] ECLI:EU:C:2014:2364 | BIIbis Article 12(3) | <p>'1. Must Article 12(3) of [Regulation No 2201/2003] be interpreted as establishing jurisdiction over proceedings concerning parental responsibility even where no other related proceedings (that is, "proceedings other than those referred to in paragraph 1") are pending?</p> <p>2. In the event of an affirmative answer to Question 1:</p> <p>Must Article 12(3) of [Regulation No 2201/2003] be interpreted as meaning that ["acceptance expressly or otherwise in an unequivocal manner["] includes also the situation in which the party who has not initiated proceedings makes a separate application for the initiation of proceedings in the same case but immediately on doing the first act required of him objects that the court lacks jurisdiction in the proceedings previously started on the application by the other party?'</p> | <p>'1. Article 12(3) of 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, must be interpreted as allowing, for the purposes of proceedings in matters of parental responsibility, the jurisdiction of a court of a Member State which is not that of the child's habitual residence to be established even where no other proceedings are pending before the court chosen.</p> <p>2. Article 12(3)(b) of Regulation No 2201/2003 must be interpreted as meaning that it cannot be considered that the jurisdiction of the court seised by one party of proceedings in matters of parental responsibility has been 'accepted expressly or otherwise in an unequivocal manner by all the parties to the proceedings' within the meaning of that provision where the defendant in those first</p> | link |

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| | | | proceedings subsequently brings a second set of proceedings before the same court and, on taking the first step required of him in the first proceedings, pleads the lack of jurisdiction of that court.' | |
| Opinion of the Court (Grand Chamber) of 14 October 2014 1/13, 11 October 2014, ECLI:EU:C:2014:2303 | - | 'Does the exclusive competence of the [European] Union encompass the acceptance of the accession of a non-Union country to the Convention on the civil aspects of international child abduction [concluded in the Hague on] 25 October 1980 [(“the 1980 Hague Convention” or “the Convention”)]?’ | 'The exclusive competence of the European Union encompasses the acceptance of the accession of a third State to the Convention on the civil aspects of international child abduction concluded in The Hague on 25 October 1980.' | link |
| C-215/15 Vasilka Ivanova Gogova v Ilia Dimitrov Iliev [2015] ECLI:EU:C:2015:710 | BIIbis Articles 1(1)(b), 2(7), 8(1) and 12(1)(b), 12(3)(b) | <p>(1) Does the possibility, provided for by law, for civil courts to resolve a dispute between parents concerning their child's ability to travel abroad and the issue of identity documents, where the applicable substantive law requires that those parental rights be exercised jointly with regard to the child, constitute a matter relating to “the attribution, exercise, delegation, restriction or termination of parental responsibility” within the meaning of Article 1(1)(b) in conjunction with Article 2(7) of [Regulation No 2201/2003] to which Article 8(1) of that regulation applies?</p> <p>(2) Do grounds establishing international jurisdiction apply in civil cases concerning parental responsibility where the decision replaces a legal act central to an administrative procedure concerning the child and the applicable law provides that this procedure must take place in a specific EU Member State?</p> <p>(3) Must it be assumed that there is a prorogation of jurisdiction within the meaning of Article 12(1)(b) of Regulation ... No 2201/2003 where the defendant's representative has not</p> | <p>'1. An action in which one parent asks the court to remedy the lack of agreement of the other parent to their child travelling outside his Member State of residence and a passport being issued in the child's name is within the material scope of 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, even though the decision in that action will have to be taken into account by the authorities of the Member State of which the child is a national in the administrative procedure for the issue of that passport.</p> <p>2. Article 12(3)(b) of Regulation No 2201/2003 must be interpreted as meaning that the jurisdiction of the courts seised of an application in matters of parental responsibility may not be regarded as having been ‘accepted expressly or otherwise in an unequivocal manner by all the parties to the proceedings’ within the meaning of that provision solely because the legal representative of the defendant, appointed by those courts of their own</p> | link |

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| | | challenged the jurisdiction of the court but where that representative has not been authorised by the defendant but rather appointed by the court owing to the difficulty in notifying the defendant in order for him to take part in the proceedings in person or through a representative instructed by him?’ | motion in view of the impossibility of serving the document instituting proceedings on the defendant, has not pleaded the lack of jurisdiction of those courts.’ | |
| C 455/15 PPU P v Q [2015] ECLI:EU:C:2015:763 | Billbis Articles 23(a) and 24 | ‘Should the [referring court], in accordance with Article 23(a) of [Regulation No 2201/2003] or any other provision and notwithstanding Article 24 of that regulation, refuse to recognise the judgment of the [Šilutės rajono apylinkės teismas (District Court, Šilutė)] of 18 February 2015 ... and consequently continue the proceedings in the custody case pending before the [referring court]?’ | ‘Article 23(a) of 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, must be interpreted as meaning that, in the absence of a manifest breach, having regard to the best interests of the child, of a rule of law regarded as essential in the legal order of a Member State or of a right recognised as being fundamental within that legal order, that provision does not allow a court of that Member State which considers that it has jurisdiction to rule on the custody of a child to refuse to recognise a judgment of a court of another Member State which has ruled on the custody of that child.’ | link |
| C-184/14 A v B [2015] ECLI:EU:C:2015:479 | Maintenance Regulation (4/2009) (interpretation potentially relevant for the Billbis) | ‘May the decision on a request for child maintenance raised in the context of proceedings concerning the legal separation of spouses, being ancillary to those proceedings, be taken both by the court before which those separation proceedings are pending and by the court before which proceedings concerning parental responsibility are pending, on the basis of the prevention criterion, or must that decision of necessity be taken only by the latter court, as the two distinct criteria set out in points (c) and (d) of [Article 3 of Regulation No 4/2009] are alternatives (in the sense that they are mutually exclusive)?’ | ‘Article 3(c) and (d) of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations must be understood as meaning that, in the event that a court of a Member State is seised of proceedings involving the separation or dissolution of a marital link between the parents of a minor child and a court of another Member State is seised of proceedings in matters of parental responsibility involving that same child, an application relating to maintenance concerning that child is ancillary only to the proceedings | link |

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| | | | concerning parental responsibility, within the meaning of Article 3(d) of that regulation.' | |
| C-404/14 Matoušková [2015] ECLI:EU:C:2015:653 | BIIbis Articles 1(1)(b), 1(3)(f) | 'If an agreement on the sharing-out of an estate concluded on behalf of a minor by his or her guardian ad litem requires the approval of a court in order to be valid, is that decision on the part of the court a measure within the meaning of Article 1(1)(b) or a measure within the meaning of Article 1(3)(f) of [Regulation No 2201/2003]?' | '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, must be interpreted as meaning that the approval of an agreement for the sharing-out of an estate concluded by a guardian ad litem on behalf of minor children constitutes a measure relating to the exercise of parental responsibility, within the meaning of Article 1(1)(b) of that regulation and thus falls within the scope of the latter, and not a measure relating to succession, within the meaning of Article 1(3)(f) thereof, excluded from the scope thereof.' | link |
| C-498/14 PPU David Bradbrooke v Anna Aleksandrowicz [2015] ECLI:EU:C:2015:3 | BIIbis Articles 11(7) and 11(8) | 'Are the provisions in Article 11(7) and (8) of the Regulation to be interpreted as precluding a Member State from: –giving preference to the specialisation of courts in situations of parental child abduction with respect to the procedure provided for in those provisions even where a court or tribunal has already been seised of proceedings concerning the substance of parental responsibility in relation to the child? –removing, from the court seised of proceedings on the substance of parental responsibility in relation to the child, jurisdiction to give judgment on the custody of the child, even though that court has jurisdiction, under international and national law, to give judgment on questions of parental responsibility in relation to the child?' | 'Article 11(7) and (8) of 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, must be interpreted as not precluding, as a general rule, a Member State from allocating to a specialised court the jurisdiction to examine questions of return or custody with respect to a child in the context of the procedure set out in those provisions, even where proceedings on the substance of parental responsibility with respect to the child have already, separately, been brought before a court or tribunal.' | link |

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| <p>C-489/14 A v B [2015] ECLI:EU:C:2015:654</p> | <p>BIIbis Articles 19(1) and 19(3)</p> | <p>'(1) For the purposes of Article 19(1) and (3) [of Regulation No 2201/2003], what does "established" mean, in circumstances where:</p> <p>(a) the applicant, in the proceedings in the court first seised ("the first proceedings"), takes virtually no steps in the first proceedings beyond the first court appointment, and in particular does not issue a Petition (Assignment) within the time-limit for the expiry of the Request (Requête), with the result that the first proceedings expire undetermined by effluxion of time and in accordance with the local (French) law of the first proceedings, namely 30 months after the first directions appointment;</p> <p>(b) the first proceedings expire as above very shortly (3 days) after the proceedings in the court second seised ("the second proceedings") are issued in England, with the result that there is no judgment in France nor any danger of irreconcilable judgments between the first proceedings and the second proceedings; and</p> <p>(c) by virtue of the United Kingdom's time zone the applicant in the first proceedings would, following the lapse of the first proceedings, always be able to issue divorce proceedings in France before the applicant [in the second proceedings] could issue divorce proceedings in England?</p> <p>(2) In particular, does "established" import that the applicant in the first proceedings must take steps to progress the first proceedings with due diligence and expedition to a resolution of the dispute (whether by the Court or by agreement), or is the applicant in the first proceedings, having</p> | <p>'In the case of judicial separation and divorce proceedings brought between the same parties before the courts of two Member States, Article 19(1) and (3) of 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, must be interpreted as meaning that, in a situation such as that at issue in the main proceedings in which the proceedings before the court first seised in the first Member State expired after the second court in the second Member State was seised, the criteria for lis pendens are no longer fulfilled and, therefore, the jurisdiction of the court first seised must be regarded as not being established.'</p> | <p>link</p> |
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| | | once secured jurisdiction under Articles 3 and 19(1) [of Regulation No 2201/2003], free to take no substantive steps at all towards resolution of the first proceedings as above and free thereby simply to secure a stop of the second proceedings and a stalemate in the dispute as a whole?’ | | |
| C-507/14 P v M [2015] ECR OJ C 65 | Billbis Article 16(1) | ‘Si une procédure relative à la responsabilité parentale a été engagée dans un État membre, et s’il existe une autre procédure, ayant le même objet et la même cause, engagée antérieurement dans un État membre différent, procédure qui a entre-temps été suspendue à l’initiative de la requérante l’ayant introduite, sans que ladite procédure ait été notifiée à la partie défenderesse, et sans [que cette dernière] en ait eu connaissance ou y soit intervenue en aucune manière, celle-ci étant effectivement suspendue lors de l’introduction, par la partie défenderesse, de la procédure citée en premier lieu, peut-on considérer, en vertu de l’article 16, paragraphe 1, sous a), du règlement n° 2201/2003 et aux fins de l’application de l’article 19, paragraphe 2, du même règlement, que la procédure qui a fait l’objet de cette suspension a été engagée en premier lieu?’ | ‘L’article 16, paragraphe 1, sous a), du règlement (CE) n° 2201/2003 du Conseil, du 27 novembre 2003, relatif à la compétence, la reconnaissance et l’exécution des décisions en matière matrimoniale et en matière de responsabilité parentale abrogeant le règlement (CE) n° 1347/2000, doit être interprété en ce sens qu’une juridiction est réputée saisie à la date à laquelle l’acte introductif d’instance ou un acte équivalent est déposé auprès de cette juridiction, même lorsque la procédure a entre-temps été suspendue à l’initiative du demandeur l’ayant introduite, sans que ladite procédure ait été notifiée à la partie défenderesse ni que cette dernière en ait eu connaissance ou y soit intervenue d’aucune manière, pour autant que le demandeur n’a pas négligé par la suite de prendre les mesures qu’il était tenu de prendre pour que l’acte soit notifié ou signifié à la partie défenderesse.’ | link |
| C-294/15 Edyta Mikołajczyk v Marie Louise Czarnecka and Stefan Czarnecki [2016] ECLI:EU:C:2016:772 | Billbis Article 1(1)(a), the fifth and sixth indents of Article (3)(1)(a) | ‘(1) Do actions for annulment of a marriage following the death of one of the spouses fall within the scope of Regulation No 2201/2003? (2) In the event of an affirmative answer to Question 1, does the scope of that regulation extend to an action for annulment of marriage brought by a person other than one of the spouses?’ | ‘1. Article 1(1)(a) of 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, must be interpreted as meaning that an action for annulment of marriage brought by a third party following the death of one of the spouses falls within the scope of Regulation No 2201/2003. | link |

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| | | (3) In the event of an affirmative answer to Question 2, in actions for annulment of marriage brought by a person other than one of the spouses, may the jurisdiction of the court be based on the grounds set out in the fifth and sixth indents of Article 3(1)(a) of the regulation?’ | 2. The fifth and sixth indents of Article 3(1)(a) of Regulation No 2201/2003 must be interpreted as meaning that a person other than one of the spouses who brings an action for annulment of marriage may not rely on the grounds of jurisdiction set out in those provisions.’ | |
| C-281/15 Soha Sahyouni v Raja Mamisch [2016] ECLI:EU:C:2016:343 | Rome III Regulation (1259/2010) (relevant to the interpretation of Article 1(1)(a) of the BIIbis) | - | No judgement rendered due to the lack of jurisdiction. | link |
| C-428/15 Child and Family Agency v J. D. [2016] ECLI:EU:C:2016:819 | BIIbis Article 15 | <p>‘(1) Does Article 15 of Regulation No 2201/2003 apply to public law care applications by a local authority in a Member State, when[,] if the Court of another Member State assumes jurisdiction, it will necessitate the commencement of separate proceedings by a different body pursuant to a different legal code and possibly, if not probably, relating to different factual circumstances?</p> <p>(2) If so, to what extent, if any, should a court consider the likely impact of any request under Article 15[,] if accepted, upon the right of freedom of movement of the individuals affected?</p> <p>(3) If the “best interests of the child” in Article 15(1) of Regulation No 2201/2003 refers only to the decision as to forum, what factors may a court consider under this heading, which have not already been considered in determining whether another court is “better placed”?</p> <p>(4) May a court for the purposes of Article 15 of Regulation No 2201/2003 have regard to the substantive law, procedural provisions, or</p> | <p>‘1. Article 15 of 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, must be interpreted as meaning that it is applicable where a child protection application brought under public law by the competent authority of a Member State concerns the adoption of measures relating to parental responsibility, such as the application at issue in the main proceedings, where it is a necessary consequence of a court of another Member State assuming jurisdiction that an authority of that other Member State thereafter commence proceedings that are separate from those brought in the first Member State, pursuant to its own domestic law and possibly relating to different factual circumstances.</p> <p>2. Article 15(1) of Regulation No 2201/2003 must be interpreted as meaning that:</p> <p>–in order to determine that a court of another Member State with which the child has a particular</p> | link |

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| | | <p>practice of the courts of the relevant Member State?</p> <p>(5) To what extent should a national court, in considering Article 15 of Regulation No 2201/2003, have regard to the specific circumstances of the case, including the desire of a mother to move beyond the reach of the social services of her home State, and thereafter give birth to her child in another jurisdiction with a social services system she considers more favourable?</p> <p>(6) Precisely what matters are to be considered by a national court in determining which court is best placed to determine the matter?’</p> | <p>connection is better placed, the court having jurisdiction in a Member State must be satisfied that the transfer of the case to that other court is such as to provide genuine and specific added value to the examination of that case, taking into account, inter alia, the rules of procedure applicable in that other Member State;</p> <p>–in order to determine that such a transfer is in the best interests of the child, the court having jurisdiction in a Member State must be satisfied, in particular, that that transfer is not liable to be detrimental to the situation of the child.</p> <p>3. Article 15(1) of Regulation No 2201/2003 must be interpreted as meaning that the court having jurisdiction in a Member State must not take into account, when applying that provision in a given case relating to parental responsibility, either the effect of a possible transfer of that case to a court of another Member State on the right of freedom of movement of persons concerned other than the child in question, or the reason why the mother of that child exercised that right, prior to that court being seised, unless those considerations are such that there may be adverse repercussions on the situation of that child.’</p> | |
| <p>C-173/16 M.H. v M.H. [2016] ECLI:EU:C:2016:542</p> | <p>BIIbis Article 16(1)(a)</p> | <p>‘Is “the time when the document instituting the proceedings ... is lodged with the court” in Article 16(1)(a) of Regulation 2201/2003 to be interpreted as meaning:-</p> <p>(i) the time at which the document instituting the proceedings is received by the court even if such receipt does not of itself immediately commence the proceedings in accordance with national law; or</p> | <p>‘Article 16(1)(a) of 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, must be interpreted to the effect that the ‘time when the document instituting the proceedings or an equivalent document is lodged with the court’, within the meaning of that provision, is the time when that document is lodged with the court concerned, even if under national</p> | <p>link</p> |

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| | | (ii) the time at which, following receipt of the document instituting the proceedings by the court, the proceedings are commenced in accordance with national law?’ | law lodging that document does not of itself immediately initiate proceedings.’ | |
| C-67/17 Todor Iliev v Blagovesta Ilieva [2017] ECLI:EU:C:2017:459 | Brussels Ibis Regulation (1215/2012) (relevant to the interpretation of Article 1(1)(a) of the BIIbis) | <p>‘(1) Does an action between former spouses on the division of movable property acquired during the marriage as joint property of the spouses constitute a legal dispute relating to rights in property arising out of a matrimonial relationship within the meaning of Article 1(2)(a) of Regulation [No 1215/2012]?’</p> <p>(2) Is a dispute concerning the division of movable property acquired during the marriage, but registered with the competent national authorities only in the name of one of the spouses, excluded from its scope under Article 1(2)(a) of Regulation [No 1215/2012]?’</p> <p>(3) Which court has jurisdiction over a dispute between former spouses on the ownership of immovable property acquired during their civil marriage, when the spouses are nationals of a Member State of [the European Union], but it has been established in the proceedings that at the time of entering the marriage, acquisition of the property, ending the marriage and the application for division of the property after the marriage had ended, they had their place of residence in another Member State?’</p> | ‘Article 1(2)(a) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a dispute such as that in the main proceedings, relating to the liquidation of property — acquired during marriage by spouses who are nationals of a Member State but domiciled in another Member State — after a divorce has taken place, does not come within the scope of that regulation but comes rather within the scope of matrimonial property regimes and, consequently, within the scope of the exclusions listed in Article 1(2)(a) of that regulation.’ | link |
| C-372/16 Soha Sahyouni v Raja Mamisch [2017] ECLI:EU:C:2017:988 | Rome III Regulation (1259/2010) (relevant to the interpretation of Article 1(1)(a) of the BIIbis) | ‘(1) Does the scope of [Regulation No 1259/2010], as defined in Article 1 of that regulation, also include cases of private divorce, in this instance one pronounced by unilateral declaration of a spouse before a religious court in Syria on the basis of sharia?’ | ‘Article 1 of Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation must be interpreted as meaning that a divorce resulting from a unilateral declaration made by one of the spouses before a religious court, such as that at issue in the | link |

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| | | <p>(2) If the answer to Question 1 is in the affirmative: In applying Regulation [No 1259/2010] [when examining] Article 10 thereof in cases of private divorce,</p> <p>(a) is account to be taken in the abstract of a comparison showing that, while the applicable law pursuant to Article 8 grants access to divorce to the other spouse too, that divorce is, on account of the other spouse's sex, subject to procedural and substantive conditions different from those applicable to access for the first spouse, or</p> <p>(b) does the applicability of that rule depend on whether the application of the foreign law, which is discriminatory in the abstract, also discriminates in the particular case in question?</p> <p>(3) If the answer to [Question 2(b)] is in the affirmative: Does the fact that the spouse discriminated against consents to the divorce — including by duly accepting compensation — itself constitute a ground for not applying that rule?’</p> | <p>main proceedings, does not come within the substantive scope of that regulation.’</p> | |
| <p>C-111/17 PPU OL v PQ [2017] ECLI:EU:C:2017:436</p> | <p>Bilbis Article 11(1)</p> | <p>‘What is the appropriate interpretation of the concept of “habitual residence”, within the meaning of Article 11(1) of [Regulation No 2201/2003], in the case of an infant who fortuitously or due to force majeure has been born in a place other than that which her parents with joint parental responsibility for the child intended to be the place of her habitual residence, and was then unlawfully retained by one parent in the State where she was born, or removed to a third State. More specifically, is physical presence a necessary and self-evident prerequisite, in all circumstances, for establishing the habitual</p> | <p>‘Article 11(1) of 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, must be interpreted as meaning that, in a situation, such as that in the main proceedings, where a child has been born and has lived continuously with her mother for several months, in accordance with the joint wishes of her parents, in a Member State other than that where those parents were habitually resident before her birth, the initial intention of the parents with respect to the</p> | <p>link</p> |

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| | | residence of a person, and in particular a newborn child?’ | <p>return of the mother, together with the child, to the latter Member State cannot allow the conclusion that that child was ‘habitually resident’ there, within the meaning of that regulation.</p> <p>Consequently, in such a situation, the refusal of the mother to return to the latter Member State together with the child cannot be considered to be a ‘wrongful removal or retention’ of the child, within the meaning of Article 11(1).’</p> | |
| C-499/15 W and V v X [2017] ECLI:EU:C:2017:118 | BIIbis Articles 8, 14 | ‘In accordance with Articles 8 to 14 of 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, which Member State (the Republic of Lithuania or the Kingdom of the Netherlands) has jurisdiction to hear and determine an application for the changes to the place of residence, to the child maintenance amount and to the applicable contact arrangements in respect of the minor child, V, who is habitually resident in the Kingdom of the Netherlands?’ | ‘Article 8 of 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, and Article 3 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, must be interpreted as meaning that, in a case such as that in the main proceedings, the courts of the Member State which made a decision that has become final concerning parental responsibility and maintenance obligations with regard to a minor child no longer have jurisdiction to decide on an application for variation of the provisions ordered in that decision, inasmuch as the habitual residence of the child is in another Member State. It is the courts of the Member State of habitual residence that have jurisdiction to decide on that application.’ | link |
| C-335/17 Neli Valcheva v Georgios Babanarakis [2018] ECLI:EU:C:2018:359 | BIIbis Articles 1(2)(a), 2(7), 2(10) | ‘Is the concept of “rights of access” used in Article 1(2)(a) and Article 2.10 of Regulation No 2201/2003 to be interpreted as encompassing not only access between the parents and the | ‘The concept of ‘rights of access’ referred to in Article 1(2)(a) and in Article 2.7 and 2.10 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial | link |

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| | | child but also the child's access to relatives other than the parents, that is to say the grandparents?' | matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, must be interpreted as including rights of access of grandparents to their grandchildren.' | |
| C-604/17 PM v AH [2018] ECLI:EU:C:2018:10 | BIIbis Articles 3, 8, 9, 10, 12, 15 | 'Le règlement no 2201/2003 permet-il l'examen d'affaires concernant la responsabilité parentale, sans que soient réunies les conditions prévues aux articles 8 et 12 du règlement, par une juridiction d'un État membre qui est compétente pour examiner l'affaire de divorce en vertu de l'article 3 du règlement, lorsque le droit national de cet État membre oblige la juridiction à se prononcer d'office sur l'exercice des droits parentaux, sur des mesures concernant le droit de visite, la pension alimentaire, ainsi que sur l'utilisation du logement conjugal, en même temps que sur la demande de divorce ?' | 'Le règlement (CE) no 2201/2003 du Conseil, du 27 novembre 2003, relatif à la compétence, la reconnaissance et l'exécution des décisions en matière matrimoniale et en matière de responsabilité parentale abrogeant le règlement (CE) no 1347/2000, doit être interprété en ce sens qu'une juridiction d'un État membre compétente pour statuer, en vertu de l'article 3, paragraphe 1, sous b), de ce règlement, sur une demande en divorce entre deux époux ayant la nationalité de cet État membre n'est pas compétente pour se prononcer sur le droit de garde et le droit de visite à l'égard de l'enfant des époux lorsque celui-ci a, au moment où cette juridiction est saisie, sa résidence habituelle dans un autre État membre et que les conditions requises pour conférer cette compétence à ladite juridiction en vertu de l'article 12 dudit règlement ne sont pas remplies, compte tenu en outre du fait qu'il ne résulte pas non plus des circonstances de l'affaire au principal que cette compétence pourrait être fondée sur les articles 9, 10 ou 15 du même règlement. Par ailleurs, cette juridiction ne satisfait pas aux conditions prévues à l'article 3, sous d), du règlement (CE) no 4/2009 du Conseil, du 18 décembre 2008, relatif à la compétence, la loi applicable, la reconnaissance et l'exécution des décisions et la coopération en matière d'obligations alimentaires pour statuer sur la demande relative à la pension alimentaire.' | link |

C-85/18 PPU CV v DU
[2018]
ECLI:EU:C:2018:220

Billbis Articles 8, 10
and 13

“(a) Is the concept of habitual residence of the child, within the meaning of Article 8(1) of Regulation No 2201/2003, to be interpreted as meaning that such habitual residence corresponds to the place where the child has demonstrated some degree of integration into the social and family environment, irrespective of the fact that a ruling has been made in another Member State, after the child moved with his father to the territory of the State, where the minor has integrated into that social and family environment? If that is the case, should Article 13 of Regulation No 2201/2003, which determines jurisdiction based on the child’s presence, be applied?
(2) Is the fact that the minor has the nationality of the Member State in which he lives with his father, in circumstances where his parents have Romanian nationality only, relevant for the purpose of determining habitual residence?”

“Article 10 of 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, and Article 3 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, must be interpreted as meaning that, in a case such as that at issue in the main proceedings, in which a child who was habitually resident in a Member State was wrongfully removed by one of the parents to another Member State, the courts of that other Member State do not have jurisdiction to rule on an application relating to custody or the determination of a maintenance allowance with respect to that child, in the absence of any indication that the other parent consented to his removal or did not bring an application for the return of that child.”

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C-393/18 PPU UD v. XB
[2018]
ECLI:EU:C:2018:835

Billbis Article 8(1)

“(1) Is the physical presence of a child in a State an essential ingredient of habitual residence, within the meaning of Article 8 of [Regulation No 2201/2003]? (2) In circumstances where both parents are holders of Parental Responsibility, does the fact that a mother has been tricked to go to another state and then unlawfully detained by coercion or other unlawful act in that state by the father, leading to the mother being forced to give birth to a child in that state, have any impact on the answer to [the first question] in circumstances where there may have been a violation of the mother and/or child’s human rights, pursuant to Articles 3 and 5 of the

Article 8(1) of 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, must be interpreted to the effect that a child must have been physically present in a Member State in order to be regarded as habitually resident in that Member State, for the purposes of that provision. Circumstances such as those in the main proceedings, assuming that they are proven, that is to say, first, the fact that the father’s coercion of the mother had the effect of her giving birth to

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| | | [Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950], or otherwise?’ | their child in a third country where she has resided with that child ever since, and, secondly, the breach of the mother’s or the child’s rights, do not have any bearing in that regard. | |
| C-565/16 Alessandro Saponaro v Kalliopi-Chloi Xylina [2018] ECLI:EU:C:2018:265 | Billbis Article 12(3) | <p>‘Where a petition for authorisation to renounce an inheritance is brought before a Greek court by the parents of a minor child who is habitually resident in Italy, for the purposes of determining whether prorogation of jurisdiction complies with Article 12(3)(b) of Regulation No 2201/2003:</p> <p>(a) is the unequivocal agreement to the prorogation by the parents demonstrated merely by the lodging of the application before the Greek court;</p> <p>(b) is the prosecutor one of the parties who must agree to prorogation at the time of the lodging of the application, given that under Greek law he is legally a party to the relevant proceedings;</p> <p>(c) is the prorogation of jurisdiction in the best interests of the child, in circumstances where the child in question and the applicants, who are the child’s parents, are habitually resident in Italy, while the place of residence of the deceased at the time of his death was Greece and the assets which are the object of the inheritance are in Greece?’</p> | <p>In a situation, such as that in the main proceedings, where the parents of a minor child, who are habitually resident with the latter in a Member State, have lodged, in the name of that child, an application for permission to renounce an inheritance before the courts of another Member State, Article 12(3)(b) of 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, must be interpreted as meaning:</p> <ul style="list-style-type: none"> – the joint lodging of proceedings by the parents of the child before the courts of their choice is an unequivocal acceptance by them of that court; – a prosecutor who, according to the national law, has the capacity of a party to the proceedings commenced by the parents, is a party to the proceedings within the meaning of Article 12(3)(b) of Regulation No 2201/2003. Opposition by that party to the choice of jurisdiction made by the parents of the child in question, after the date on which the court was seised, precludes the acceptance of prorogation of jurisdiction by all the parties to the proceedings at that date from being established. In the absence of such opposition, the agreement of that party may be regarded as implicit and the condition of the unequivocal acceptance | Link |

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| | | | <p>of prorogation of jurisdiction by all the parties to the proceedings at the date on which that court was seised may be held to be satisfied; and</p> <ul style="list-style-type: none"> – the fact that the residence of the deceased at the time of his death, his assets, which are the subject matter of the succession, and the liabilities of the succession were situated in the Member State of the chosen courts leads, in the absence of matters that might demonstrate that the prorogation of jurisdiction was liable to have a prejudicial impact on the child’s position, to the conclusion that that prorogation of jurisdiction is in the best interests of the child. | |
| <p>C-512/17 HR v KO [2018] ECLI:EU:C:2018:513</p> | <p>Bilbis Article 8(1)</p> | <p>(1) In the circumstances of the present case, should Article 8(1) of [Regulation No 2201/2003] be interpreted as meaning that: The place of habitual residence of a child aged 18 months is the Member State in which the child demonstrates some degree of integration into the social and family environment through the nationality of the parent who has custody of the child on a daily basis, the use by the child of the official language of that Member State, the christening of the child in that country, visits, lasting up to three months, to that country by the child during holidays and that parent’s parental leave, and contact with that parent’s family, in a situation where the child resides with that same parent in another Member State for all remaining periods and that parent is employed in that State on the basis of an employment contract of indefinite duration and the child maintains in that State regular but temporally</p> | <p>Article 8(1) of 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, must be interpreted as meaning that a child’s place of habitual residence for the purpose of that regulation is the place which, in practice, is the centre of that child’s life. It is for the national court to determine, on the basis of a consistent body of evidence, where that centre was located at the time the application concerning parental responsibility over the child was submitted. In that regard, in a case such as that in the main proceedings, having regard to the facts established by that court, the following, taken together, are decisive factors:</p> | <p>Link</p> |

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| | | <p>limited contact with its second parent and his family?</p> <p>(2) When determining, on the basis of Article 8(1) of Regulation No 2201/2003, by assessing the integration of the child into the social and family environment, the place of habitual residence of a child aged 18 months which, given its age, remains in the custody of only one of its parents on a daily basis and maintains regular but temporally limited contact with the second parent, where there is a lack of agreement between the parents as to the exercise of parental responsibility for and contact with the child, should equal account be taken of the ties between the child and each of its parents, or should greater consideration be given to the child's ties with the parent who looks after the child on a daily basis?'</p> | <ul style="list-style-type: none"> - the fact that, from its birth until its parents' separation, the child generally lived with those parents in a specific place; - the fact that the parent who, in practice, has had custody of the child since the couple's separation continues to stay in that place with the child on a daily basis and is employed there under an employment contract of indefinite duration; and - the fact that the child has regular contact there with its other parent, who is still resident in that place. <p>By contrast, in a case such as that in the main proceedings, the following cannot be regarded as decisive:</p> <ul style="list-style-type: none"> - the stays which the parent who, in practice, has custody of the child has spent in the past with that child in the territory of that parent's Member State of origin in the context of leave periods or holidays; - the origins of the parent in question, the cultural ties which the child has with that Member State as a result, and the parent's relationships with family residing in that Member State; and - any intention the parent has of settling in that Member State with the child in the future. | |
| <p>Joined Cases C-325/18 PPU and C-375/18 PPU Hampshire County Council v C.E. and N.E. [2018]</p> | <p>Billbis Article 1, 11, 20, 31, 33(5)</p> | <p>(1) Where it is alleged that children have been wrongfully taken from the country of their habitual residence by their parents and/or other family members in breach of a court order obtained by a public authority of that State, may</p> | <p>1. The general provisions of Chapter III of 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</p> | <p>Link</p> |

that public authority apply to have any court order directing the return of the children to that jurisdiction enforced in the courts of another Member State pursuant to the provisions of Chapter III of [Regulation No 2201/2003] or would this amount to a wrongful circumvention of Article 11 of that Regulation and the 1980 Hague Convention or otherwise amount to an abuse of rights or law on the part of the authority concerned?

(2) In a case concerning the enforcement provisions of [Regulation No 2201/2003] is there a jurisdiction to extend time for the purposes of Article 33(5) where the delays are essentially de minimis and an extension of time would otherwise have been granted by reference to national procedural law?

(3) Without prejudice to question 2 where a foreign public authority removes the children, the subject matter of the dispute, from the jurisdiction of a Member State pursuant to an enforcement order made ex parte in accordance with Article 31 of [Regulation No 2201/2003] but before the service of such order on the parents thereby depriving them of their rights to apply for a stay of such an order pending an appeal, does such conduct compromise the essence of parents' entitlement under Article 6 [of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950] or Article 47 of the Charter such that an extension of time (for the purposes of Article 33(5) of that Regulation) should otherwise be granted?

responsibility, repealing Regulation (EC) No 1347/2000, must be interpreted as meaning that, where it is alleged that children have been wrongfully removed, the decision of a court of the Member State in which those children were habitually resident, directing that those children be returned and which is entailed by a decision dealing with parental responsibility, may be declared enforceable in the host Member State in accordance with those general provisions.

2. Article 33(1) of Regulation No 2201/2003, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding, in a situation such as that at issue in the main proceedings, enforcement of a decision of a court of a Member State which directs that children be made wards of court and that they be returned and which is declared enforceable in the requested Member State, prior to service of the declaration of enforceability of that decision on the parents concerned. Article 33(5) of Regulation No 2201/2003 must be interpreted as meaning that the period for lodging an appeal laid down in that provision may not be extended by the court seised.

3. Regulation No 2201/2003 must be interpreted as not precluding, in a situation such as that at issue in the main proceedings, a court of one Member State from adopting protective measures in the form of an injunction directed at a public body of another Member State, preventing that body from commencing or continuing, before the courts of that other Member State, proceedings for the adoption of children who are residing there.

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| <p>C-478/17 IQ v JP [2018] ECLI:EU:C:2018:812</p> | <p>Billbis Article 15, 19</p> | <p>(1) Does the expression “the courts of a Member State having jurisdiction as to the substance of the matter” which appears in Article 15 [of Regulation No 2201/2003] refer equally to courts hearing the case at first instance and to courts of appeal? It is important to know whether the case may be transferred, on the basis of that provision, to a court better placed to hear it if the court having jurisdiction and being asked to transfer the case to a better placed court is a court of appeal, while the better placed court is a court of first instance.</p> <p>(2) If the answer to Question 1 is in the affirmative, how is the court having jurisdiction and transferring the case to a better placed court to deal with the judgment at first instance?’</p> | <p>Article 15 of 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, must be interpreted as not applying in circumstances, such as those in the main proceedings, in which both courts seised have jurisdiction as to the substance of the matter under Articles 12 and 8, respectively, of that regulation.</p> | <p>Link</p> |
| <p>C-386/17 Stefano Liberato v Luminita Luisa Grigorescu [2019] ECLI:EU:C:2019:24</p> | <p>Billbis Article 19, 22(a), 23(a), 24 Brussels I (No 44/2001) Article 5(2), 27, 35(3)</p> | <p>(1) Does an infringement of the rules on lis pendens contained in Article 19(2) and (3) of Regulation No 2201/2003 affect only the determination of jurisdiction, with the consequent application of Article 24 [thereof] or, on the contrary, may it constitute a ground for withholding recognition, in the Member State whose court has been seised first, of a judicial ruling made in the Member State whose court has been seised at a later stage, in the light of procedural public policy, having regard to the fact that [that Article 24] refers only to the rules determining jurisdiction contained in Articles 3 to 14 of that regulation and not to the subsequent Article 19 thereof?</p> <p>(2) Does the interpretation of Article 19 of Regulation No 2201/2003, seen only as a test for the conferral of jurisdiction, conflict with the EU-law concept of “lis pendens” and with the function and purpose of that provision, which is intended to lay down a set of binding rules,</p> | <p>The rules of lis pendens in Article 27 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and Article 19 of 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 must be interpreted as meaning that where, in a dispute in matrimonial matters, parental responsibility or maintenance obligations, the court second seised, in breach of those rules, delivers a judgment which becomes final, those articles preclude the courts of the Member State in which the court first seised is situated from refusing to recognise that judgment solely for that reason. In particular, that breach cannot, in itself, justify non-recognition of a</p> | <p>Link</p> |

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| | | reflecting procedural public policy, thereby guaranteeing the creation of a common area characterised by reciprocal procedural trust and fairness between the Member States, within which the automatic recognition and free movement of judicial decisions may operate?’ | judgment on the ground that it is manifestly contrary to public policy in that Member State. | |
| C-530/18 EP v FO [2019] ECLI:EU:C:2019:583 | Billbis Article 15 | <p>(1) Must Article 15 of [Regulation No 2201/2003] be interpreted as establishing an exception to the rule that the national courts of the place where the child is habitually resident are to have jurisdiction?</p> <p>(2) Must Article 15 of [Regulation No 2201/2003] be interpreted as meaning that the facts set out by a party to proceedings (namely: the child was born in France, her father is a French citizen, her blood relations in France include two sisters and a brother, a niece (her sister’s daughter), her paternal grandfather, her father’s current partner and their minor daughter, whereas she has no family ties on her mother’s side in Romania, she attends a French school, her upbringing and mentality have always been French, the language spoken at home between the parents and by the parents to the child has always been French) are factors indicating that the child has a particular connection with France, and must the national court therefore declare that the French courts are better placed to hear the case?</p> <p>(3) Must Article 15 of [Regulation No 2201/2003] be interpreted as meaning that the procedural differences between the legislation of the two States, such as hearings held in camera by specialised judges, are subject to the best interests of the child for the purposes of that provision [of EU law]?’</p> | <p>1. Article 15(1) of 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, must be interpreted to the effect that it establishes an exception to the general rule of jurisdiction laid down in Article 8 of Regulation No 2201/2003, according to which the jurisdiction of the courts of the Member States is determined by the place where the child is habitually resident at the time the courts are seised.</p> <p>2. Article 15 of Regulation No 2201/2003 must be interpreted to the effect that, if one or more of the five alternative criteria which it lays down exhaustively in order to assess whether the child has a particular connection to another Member State, other than the State of her habitual residence, are satisfied, the court having jurisdiction by virtue of Article 8(1) of that regulation has the option to transfer the case to a court which it considers to be better placed to deal with the dispute before it, but is not obliged to do so. If the court having jurisdiction reaches the conclusion that the relations which link the child concerned to the Member State of her habitual residence are stronger than those which link her to another Member State, that conclusion is sufficient to rule out the application of Article 15 of that regulation.</p> | Link |

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| | | | <p>3. Article 15 of Regulation No 2201/2003 must be interpreted to the effect that the existence of differences between the rules of law, in particular the rules of procedure, of a Member State having jurisdiction as to the substance of a case and those of another Member State with which the child concerned has a particular connection, such as the examination of cases in camera by specialist judges, does not constitute, in a general and abstract way, a relevant criterion, in light of the best interests of the child, when assessing whether the courts of that Member State are better placed to hear that case. The court having jurisdiction may take those differences into consideration only if they are such as to provide genuine and specific added value with respect to the decision to be taken in relation to that child, as compared with the possibility of the case remaining before that court.</p> | |
| <p>C-468/18 R v P [2019] ECLI:EU:C:2019:666</p> | <p>Regulation (EC) No 4/2009 Article 3(a), 3(d), 5 BIIbis Article 12</p> | <p>(1) In the context of an action before the courts of a Member State which comprises three heads of claim concerning (i) the dissolution of the marriage of the parents of a minor child, (ii) parental responsibility for that minor child and (iii) maintenance obligations with regard to that minor child, may Article 3(a) and (d) and Article 5 of Regulation No 4/2009 be interpreted as meaning that the court seised of the divorce petition, being also a court for the place where the defendant is habitually resident and the court before which the defendant has entered an appearance, has jurisdiction to give a decision on the claim concerning maintenance obligations in respect of the minor child, notwithstanding its finding that it has no jurisdiction in the matter of parental</p> | <p>Article 3(a) and (d) and Article 5 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations must be interpreted as meaning that where there is an action before a court of a Member State which includes three claims concerning, respectively, the divorce of the parents of a minor child, parental responsibility in respect of that child and the maintenance obligation with regard to that child, the court ruling on the divorce, which has declared that it has no jurisdiction to rule on the claim concerning parental responsibility, nevertheless has jurisdiction to rule on the claim concerning the maintenance obligation with regard to that child where it is also the court for</p> | <p>Link</p> |

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| | | <p>responsibility for the minor child, or may the claim concerning maintenance obligations be decided only by a court having jurisdiction to adjudicate the claim concerning parental responsibility for the minor child?</p> <p>(2) In the circumstances relating to the jurisdiction of the national court described above, is the claim concerning maintenance obligations with regard to the minor child ancillary to the claim concerning parental responsibility, within the meaning of Article 3(d) of Regulation No 4/2009?</p> <p>(3) In the event that the second question is answered in the negative, is it in the best interests of the child for a court of a Member State which has jurisdiction pursuant to Article 3(a) of Regulation No 4/2009 to decide the claim concerning the maintenance obligations of the parents toward the minor child of the marriage of which the dissolution is sought, notwithstanding the fact that that court has found itself to have no jurisdiction in the matter of parental responsibility and has held, with the force of res judicata, that the conditions laid down by Article 12 of [Regulation No 2201/2003] are not fulfilled?</p> | <p>the place where the defendant is habitually resident or the court before which the defendant has entered an appearance, without contesting the jurisdiction of that court.</p> | |
| <p>C-759/18 OF v PG [2019] ECLI:EU:C:2019:816</p> | <p>Billbis Article 2(7), 3(1), 12, 17</p> | <p>(1) Should Article 3(1) of Regulation (EC) No 2201/2003 be interpreted as meaning that a failure on the part of the defendant to raise an objection that the Romanian courts lack international jurisdiction to give a ruling on a case concerning a “divorce involving a minor” amounts to his giving tacit consent to the case being decided by the court seised by the applicant, where the parties have their habitual residence in another Member State [of the European Union] (in the present case, Italy) and</p> | <p>1. Article 3(1) of 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, must be interpreted as meaning that, in the case of an application for divorce, where the applicant brings proceedings before a court of the Member State of the spouses’ common nationality, although their habitual residence is in another</p> | <p>Link</p> |

the divorce proceedings have been brought before a court of the State of which the parties are nationals?

(2) Should [Article] 3(1) and [Article] 17 of Regulation No 2201/2003 be interpreted as meaning that a court may or must raise, of its own motion, an objection that the Romanian courts lack international jurisdiction to give a ruling on a case concerning a “divorce involving a minor”, where there has been no agreement between the parties, who are resident in another Member State [of the European Union] (in the present case, Italy), regarding the choice of the court having jurisdiction (resulting in the action being dismissed as not falling within the jurisdiction of the Romanian courts), which has priority over Article 915(2) of the [Code of Civil Procedure], pursuant to which an objection may be raised that the Judecătoria Rădăuți (Court of First Instance, Rădăuți) does not have exclusive territorial jurisdiction (resulting in its declining jurisdiction to give a ruling on the case in favour of the Judecătoria Sectorului 5 București (Court of First Instance, Sector 5, Bucharest[, Romania]) and the case being decided on the merits), especially given that those provisions are less favourable than the provision of national legislation concerned (Article 915(2) of the [Code of Civil Procedure])?

(3) Should the expression contained in Article 12(1)(b) of Regulation No 2201/2003, namely “the jurisdiction of the courts has been accepted ... otherwise in an unequivocal manner by the spouses and by the holders of parental responsibility, at the time the court is seised”, be interpreted as meaning that, where the parties, who are habitually resident in another Member

Member State, that court has jurisdiction to rule on that application pursuant to point (b) of that provision. As the defendant is not required to give consent, it is not necessary to examine whether a failure on the part of the defendant to raise an objection that that court lacks jurisdiction constitutes tacit consent to the court seised having jurisdiction.

2. Article 3(1) and Article 17 of Regulation No 2201/2003 must be interpreted as meaning that, in a situation such as that at issue in the main proceedings, the fact that the couple seeking dissolution of their marriage have a minor child is irrelevant for the purposes of determining the court having jurisdiction to rule on the application for divorce. Since the court of the Member State of the spouses’ common nationality, seised by the applicant, has jurisdiction to rule on that application under Article 3(1)(b) of that regulation, that court cannot, even where there is no agreement between the parties on the matter, raise an objection that it lacks international jurisdiction.

3. Article 12(1)(b) of Regulation No 2201/2003 must be interpreted as meaning that, where a court of the Member State of the spouses’ common nationality, seised by the applicant, has jurisdiction to rule on divorce proceedings pursuant to Article 3(1)(b) of Regulation No 2201/2003, the condition relating to the acceptance of jurisdiction laid down in Article 12(1)(b) of that regulation cannot be regarded as satisfied where parental responsibility is not the subject of the proceedings and the defendant has not entered an appearance. In that situation, the court seised, which has jurisdiction to rule on the divorce of the spouses, does not have

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| | | <p>State [of the European Union] (in the present case, Italy), choose as the court having jurisdiction to give a ruling in divorce proceedings a court of the State of which they are nationals (the Judecătoria Rădăuți (Court of First Instance, Rădăuți) in Romania), that court automatically also has jurisdiction to rule on heads of claim concerning “the exercise of parental authority, the child’s place of habitual residence and the determination of parental contributions towards the costs of the child’s care and upbringing”?</p> <p>(4) Should the concept of “parental responsibility” referred to in Article 2(7) and Article 12 of Regulation No 2201/2003 be interpreted as also including the concepts of “parental authority” referred to in Article 483 of the Codul civil (Civil Code), “the child’s place of habitual residence” covered by Article 400 of the [Civil Code], and “parental contributions towards the costs of the child’s care and upbringing” covered by Article 402 of the [Civil Code]?’</p> | <p>jurisdiction under Article 12(1)(b) of Regulation No 2201/2003 and Article 3(d) of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations to rule on issues relating to parental responsibility and maintenance obligations, respectively, in respect of the child concerned.</p> <p>4. The concept of ‘parental responsibility’, as defined in Regulation No 2201/2003, must be interpreted as covering decisions relating to, in particular, custody of the child and the child’s place of habitual residence, but it does not include parental contributions towards the costs of the child’s care and upbringing, which is covered by the concept of ‘maintenance obligations’ and comes within the scope of Regulation No 4/2009.</p> | |
| <p>C-249/19 JE v KF [2020] ECLI:EU:C:2020:570</p> | <p>Regulation (EU) no 1259/2010 Article 10</p> <p>Billbis Article 3(1)(b)</p> | <p>‘Is the expression “the law applicable pursuant to Article 5 or Article 8 makes no provision for divorce”[, in Article 10 of Regulation No 1259/2010,] to be interpreted (a) in a strict, literal manner, that it is to say only in respect of a situation where the foreign law applicable makes no provision for any form of divorce, or (b) more broadly, as also including a situation where the foreign law applicable permits divorce, but does so in extremely limited circumstances, involving an obligatory legal separation procedure prior to divorce, in respect of which the law of the forum contains no equivalent procedural provisions?’</p> | <p>Article 10 of Council Regulation (EU) No 1259/2010 of 20 December 2010 implementing enhanced cooperation in the area of the law applicable to divorce and legal separation must be interpreted as meaning that the expression ‘where the law applicable by virtue of Article 5 or Article 8 makes no provision for divorce’ applies only where the foreign law applicable makes no provision for divorce in any form.</p> | <p>Link</p> |

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| C-289/20 IB v FA [2020] | Billbis Article 3 | ‘Where, as in the present case, it is apparent from the factual circumstances that one of the spouses divides his time between two Member States, is it permissible to conclude, in accordance with and for the purposes of the application of Article 3 of Regulation (EC) No 2201/2003, that he or she is habitually resident in two Member States, such that, if the conditions listed in that article are met in two Member States, the courts of those two States have equal jurisdiction to rule on the divorce?’ | <i>Ongoing</i> | Link |
| C-501/20 M P A v LC D N M T [2020] | Billbis Article 3, 7 and 14 | <p>1. How is the term ‘habitual residence’ in Article 3 of Regulation No 2201/2003 and Article 3 of Regulation No 4/2009 to be interpreted in the case of the nationals of a Member State who are staying in a non-Member State by reason of the duties conferred on them as members of the contract staff of the European Union and who, in the non-Member State, are recognised as members of the diplomatic staff of the European Union, when their stay in that State is linked to the performance of their duties for the European Union?</p> <p>2. If, for the purposes of Article 3 of Regulation No 2201/2003 and Article 3 of Regulation No 4/2009, (2) the determination of the habitual residence of the spouses depended on their status as EU contract staff in a non-Member State, how would this affect the determination of the habitual residence of the minor children in accordance with Article 8 of Regulation No 2201/2003?</p> <p>3. In the event that the children are not regarded as habitually resident in the non-Member State, can the connecting factor of the mother’s nationality, her residence in Spain prior to the marriage, the Spanish nationality of the minor</p> | <i>Ongoing</i> | Link |

children and their birth in Spain be taken into account for the purposes of determining habitual residence in accordance with Article 8 of Regulation No 2201/2003?

4. If it is established that the parents and children are not habitually resident in a Member State, given that, under Regulation No 2201/2003 there is no other Member State with jurisdiction to decide on the applications, does the fact that the defendant is a national of a Member State preclude the application of the residual clause contained in Articles 7 and 14 of Regulation No 2201/2003?

5. If it is established that the parents and children are not habitually resident in a Member State for the purpose of determining child maintenance, how is the forum necessitatis in Article 7 of Regulation No 4/2009 to be interpreted and, in particular, what are the requirements for considering that proceedings cannot reasonably be brought or enforced or prove impossible in a non-Member State with which the dispute is closely connected (in this case, Togo)? Must the party have initiated or attempted to initiate proceedings in that State with a negative result and does the nationality of one of the parties to the dispute constitute a sufficient connection with the Member State?

6. In a case like this, where the spouses have strong links with Member States (nationality, former residence), is it contrary to Article 47 of the Charter of Fundamental Rights if no Member State is considered to have jurisdiction under the provisions of the Regulations?

C-603/20 PPU, SS v
MCP [2021]
ECLI:EU:C:2021:231

Bilbis Article 10

Does Article 10 of [Regulation No 2201/2003] retain jurisdiction, without limit of time, in a Member State if a child habitually resident in that Member State was wrongfully removed to (or retained in) a non-Member State where she, following such removal (or retention), in due course became habitually resident?

Article 10 of 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, as amended by Council Regulation (EC) No 2116/2004 of 2 December 2004, must be interpreted as meaning that it is not applicable to a situation where a finding is made that a child has, at the time when an application relating to parental responsibility is brought, acquired his or her habitual residence in a third State following abduction to that State. In that situation, the jurisdiction of the court seised will have to be determined in accordance with the applicable international conventions, or, in the absence of any such international convention, in accordance with Article 14 of that regulation.

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| <p>C-262/21 PPU, A v B [2021] ECLI:EU:C:2021:640</p> | <p>Billbis Article 2(11)</p> | <p>1. Must Article 2(11) of Council Regulation (EC) No 2201/2003 (1) 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 ('the Brussels II bis Regulation'), relating to the wrongful removal of a child, be interpreted as meaning that a situation in which one of the parents, without the other parent's consent, removes the child from his or her place of residence to another Member State, which is the Member State responsible under a transfer decision taken by an authority in application of Regulation (EU) No 604/2013 (2) of the European Parliament and of the Council ('the Dublin III Regulation'), must be classified as wrongful removal?</p> <p>2. If the answer to the first question is in the negative, must Article 2(11) of the Brussels II bis Regulation, relating to wrongful retention, be interpreted as meaning that a situation in which a court of the child's State of residence has annulled the decision taken by an authority to transfer examination of the file, but in which the child whose return is ordered no longer has a currently valid residence document in his or her State of residence, or the right to enter or to remain in the State in question, must be classified as wrongful retention?</p> | <p>Article 2(11) of 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, must be interpreted as meaning that the situation in which one parent, without the consent of the other parent, is led to take his or her child from his or her Member State of habitual residence to another Member State in application of a transfer decision, made by the former Member State on the basis of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, and then to remain in the latter Member State after that transfer decision has been annulled without the authorities of the former Member State deciding to take back the persons transferred or to grant them residence, cannot constitute a wrongful removal or retention within the meaning of that provision.</p> | <p>Link</p> |
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3. If, in the light of the answer to the first or the second question, the Brussels II bis Regulation must be interpreted as meaning that there is a wrongful removal or retention of the child, and that he or she should therefore be returned to his or her State of residence, must Article 13(b) of the 1980 Hague Convention be interpreted as precluding the child's return, either

- (i) on the ground that there is grave risk, within the meaning of that provision, that the return of an unaccompanied infant whose mother has personally taken care of him or her would expose that child to physical or psychological harm or otherwise place the child in an intolerable situation; or
- (ii) on the ground that the child, in his or her State of residence, would be taken into care and placed in a hostel either alone or with his or her mother, which would indicate that there is a grave risk, within the meaning of that provision, that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation: or

(iii) on the ground that, without a currently valid residence document, the child would be placed in an intolerable situation within the meaning of that provision?

4. If, in the light of the answer to the third question, it is possible to interpret the grounds of refusal in Article 13(b) of the 1980 Hague Convention as meaning that there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation, must Article 11(4) of the Brussels II bis Regulation, in conjunction with the concept of the child's best interests, referred to in Article 24 of the Charter of Fundamental Rights of the European Union and in that regulation, be interpreted as meaning that, in a situation in which neither the child nor the mother has a currently valid residence document in the child's State of residence, and in which therefore have neither the right to enter nor the right to remain in that State, the child's State of residence must make adequate arrangements to secure that the child and his or her mother can lawfully remain [Or. 14] in the Member State in question? If the child's State of residence has such an obligation, must the principle of mutual trust between Member States be interpreted as meaning that the State which returns the child may, in accordance with that principle, presume

that the child's State of residence will fulfil those obligations, or do the child's interests make it necessary to obtain from the authorities of the State of residence details of the specific measures that have been or will be taken for the child's protection, so that the Member State which surrenders the child may assess, in particular, the adequacy of those measures in the light of the child's interests?

5. If the child's State of residence does not have the obligation, referred to above in the fourth question, to take adequate measures, is it necessary, in the light of Article 24 of the Charter of Fundamental Rights, to interpret Article 20 of the 1980 Hague Convention, in the situations referred to in the third question, points (i) to (iii), [Or. 15] as meaning that that provision precludes the return of the child because the return of the child might be considered to be contrary, within the meaning of that provision, to the fundamental principles relating to the protection of human rights and fundamental freedoms?