

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE

Directorate A: Civil justice
Unit A.1: Civil justice policy

23 JUL. 2013

Brussels,

just.a.1/JS/ea/D/(2013) 287 26 11
A/ Ares(2013)2602106,

Mr Klaus Zinser

E-mail: klauszinser@gmail.com

Dear Mr Zinser,

Thank you for your email of 2 June and 3 July 2013 in which you claim that UK authorities infringed the Brussels IIa Regulation through non-enforcement of the parental responsibility and visiting rights judgment given by the Maltese court, a judgment that has been registered in the UK. In addition, you have informed us that the UK court attained the jurisdiction for the question of parental responsibility and access rights.

Let me set out firstly that the Commission's role is to oversee implementation by Member States of the principal European legal instrument in this area: the Regulation on the mutual recognition and enforcement of decisions in divorce matters and matters of parental responsibility (the 'Brussels IIa Regulation'). This Regulation provides for the mutual recognition of judgments and introduces mechanisms for judicial cooperation between the EU Member States' authorities.

Concerning the exercise of rights to access, Article 48 of the Regulation provides that the court of the Member State of enforcement may make practical arrangements for organising the exercise of rights of access. However, this court has no jurisdiction to regulate the substance. The enforcement of an access judgment does not require a declaration of enforceability in another Member State but must be accompanied by a certificate under Annex III of the Regulation.

The procedure for enforcement itself is exclusively a matter for national law. Questions relating to legal aid granted to the mother and activities of the child welfare authority (in this case, Cafcass) are to be assessed only in accordance with national law.

I would also advise that the European Commission has no general powers to intervene in individual cases of possible rights violations. If, in your case, there were evidence of a breach of European Union law in the area of civil justice, the Commission could open infringement proceedings against the Member State in question. Ultimately this could include referral of the Member State to the EU's Court of Justice. Any Commission decision as to whether a Member State is in compliance with the Regulation is mainly

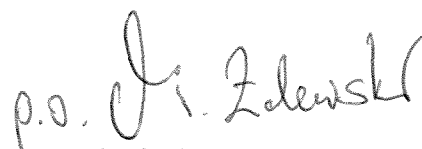
based on the assessment of decisions taken by courts in the countries involved in the case in accordance with the said Regulation.

Turning to the details of your case, you assert that the UK court has recently held a hearing to consider, among other things, the issue of jurisdiction and enforceability of the judgment in respect of visiting rights issued by the court in Malta. You have transmitted the draft orders in your last message.

For the concluding assessment of your case by the Commission, we would need to receive the final decision issued by the court after the hearing was held. You may forward these documents to the functional mailbox of the Civil Justice Policy Unit JUST-CIVIL-COOP@ec.europa.eu.

We hope that the information set out above is helpful to you and we await your response.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'p.o. N. Ringou', is written over the printed name.

Niovi Ringou

Acting Head of Unit