

Summary of Contents

List of Authors	XI
List of Abbreviations	XIII
List of Commentaries and Monographs	XVII

COMMENTARY REGULATION (EC) 2201/2003 BRUSSELS IIA

Commentary Regulation (EC) 2201/2003 Brussels Iia	1
Introduction	5
Chapter I. Scope and Definitions	13
Article 1. Scope	13
Article 2. Definitions	25
Chapter II. Jurisdiction	31
Section 1. Divorce, legal separation and marriage annulment	31
Article 3. General jurisdiction	31
Article 4. Counterclaim	59
Article 5. Conversion of legal separation into divorce	61
Article 6. Exclusive nature of jurisdiction under Articles 3, 4 and 5	64
Article 7. Residual jurisdiction	71
Section 2. Parental responsibility	74
Preliminary note	74
Article 8. General jurisdiction	77
Article 9. Continuing jurisdiction of the child's former habitual residence	88
Article 10. Jurisdiction in cases of child abduction	90
Article 11. Return of the child	95
Article 12. Prorogation of jurisdiction	101
Article 13. Jurisdiction based on the child's presence	112
Article 14. Residual jurisdiction	113
Article 15. Transfer to a court better placed to hear the case	114
Section 3. Common provisions	122
Preliminary note to Articles 16–20	122
Article 16. Seising of a Court	122
Article 17. Examination as to jurisdiction	125
Article 18. Examination as to admissibility	127
Article 19. Lis pendens and dependent actions	129
Article 20. Provisional, including protective, measures	144
Chapter III. Recognition and Enforcement	159
Section 1. Recognition	159
Article 21. Recognition of a judgment	159
Article 22. Grounds of non-recognition for judgments relating to divorce, legal separation or marriage annulment	168
Article 23. Grounds of non-recognition for judgments relating to parental responsibility	173
Article 24. Prohibition of review of jurisdiction of the court of origin	180
Article 25. Differences in applicable law	181
Article 26. Non-review as to substance	183
Article 27. Stay of proceedings	184
Section 2. Application for a declaration of enforceability	186
Article 28. Enforceable judgments	186
Article 29. Jurisdiction of local courts	191
Article 30. Procedure	192
Article 31. Decision of the court	194
Article 32. Notice of the decision	196
Article 33. Appeal against the decision	196
Article 34. Courts of appeal and means of contest	199
Article 35. Stay of proceedings	200
Article 36. Partial enforcement	202

Section 3. Provisions common to Sections 1 and 2	203
Article 37. Documents	203
Article 38 ¹ . Absence of documents	205
Article 39. Certificate concerning judgments in matrimonial matters and certificate concerning judgments on parental responsibility	207
Section 4. Enforceability of certain judgments concerning rights of access and of certain judgments which require the return of the child	208
Article 40. Scope	208
Article 41. Rights of access	214
Article 42. Judgments ordering the return of a child	220
Article 43. Rectification of the certificate	226
Article 44. Effects of the certificate	229
Article 45. Documents	230
Section 5. Authentic instruments and agreements	232
Article 46.	232
Section 6. Other provisions	236
Article 47. Enforcement procedure	236
Article 48. Practical arrangements for the exercise of rights of access	238
Article 49. Costs	240
Article 50. Legal aid	242
Article 51. Security, bond or deposit	244
Article 52. Legalisation or other similar formality	245
Chapter IV. Cooperation between central authorities in matters of parental responsibility	247
Article 53. Designation	247
Article 54. General functions	249
Article 55. Cooperation in cases specific to parental responsibility	250
Article 56. Placement of a child in another Member State	254
Article 57. Working method	256
Article 58. Meetings	257
Chapter V. Relations with other instruments	259
Article 59. Relation with other instruments	259
Article 60. Relations with certain multilateral conventions	264
Article 61. Relation with the Hague Convention of 19 October 1996 on Jurisdiction, Applicable law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children	267
Article 62. Scope of effects	270
Article 63. Treaties with the Holy See	271
Chapter VI. Transitional provisions	275
Article 64.	275
Chapter VII. Final provisions	285
Article 65. Review	285
Article 66. Member States with two or more legal systems	286
Article 67. Information on central authorities and languages accepted	288
Article 68. Information relating to courts and redress procedures	289
Article 69. Amendments to the Annexes	290
Article 70. Committee	291
Article 71. Repeal of Regulation (EC) No 1347/2000	292
Article 72. Entry into force	294
COMMENTARY REGULATION (EC) 1259/2010 ROME III	
Commentary Regulation (EC) 1259/2010 Rome III	297
Introduction	303
Chapter I. Scope, Relation with Regulation (EC) No 2201/2003, Definitions and Universal Application	313
Article 1. Scope	313
Article 2. Relation with Regulation (EC) No 2201/2003	320
Article 3. Definitions	321
Article 4. Universal application	322

Chapter II. Uniform Rules on the Law Applicable To Divorce and Legal Separation	325
Article 5. Choice of applicable law by the parties	325
Article 6. Consent and material validity	342
Article 7. Formal validity	345
Article 8. Applicable law in the absence of a choice by the parties	348
Article 9. Conversion of legal separation into divorce	356
Article 10. Application of the law of the forum	359
Article 11. Exclusion of renvoi	363
Article 12. Public policy	366
Article 13. Differences in national law	374
Article 14. States with two or more legal systems – territorial conflicts of laws	378
Article 15. States with two or more legal systems – inter-personal conflicts of laws	380
Article 16. Non-application of this Regulation to internal conflicts of laws	382
Chapter III. Other provisions	383
Article 17. Information to be provided by participating Member States	383
Article 18. Transitional provisions	384
Article 19. Relationship with existing international conventions	386
Article 20. Review clause	388
Chapter IV. Final Provisions	389
Appendix: Convention of 19 October 1996 – protection of children	391
Index	407