

---

# CONTENTS

---

<i>Series Editors' Preface</i> .....	v
<i>Preface</i> .....	vii
<i>Table of Cases</i> .....	xi
<i>Table of Legislation</i> .....	xvii
<b>1. Introduction</b> .....	<b>1</b>
I. Structure and Methodology .....	4
<b>2. Milestones on the Road to the Separate Child Abduction Regime within the European Union</b> .....	<b>7</b>
I. October 1999: The Tampere European Council Meeting .....	7
II. May 2000: Council Regulation (EC) No 1347/2000 of 29 May 2000 on Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and in Matters of Parental Responsibility for Children of Both Spouses (the Brussels II Regulation) .....	8
III. July 2000: Initiative of the French Republic with a View to Adopting a Council Regulation on the Mutual Enforcement of Judgments on Rights of Access to Children .....	9
IV. December 2000: The Draft Programme of Measures for Implementation of the Principle of Mutual Recognition of Decisions in Civil and Commercial Matters .....	12
V. March 2001: Commission Working Document: Mutual Recognition of Decisions on Parental Responsibility .....	13
VI. September 2001: The Commission Proposal for a Council Regulation on Jurisdiction and the Recognition and Enforcement of Judgments in Matters of Parental Responsibility .....	14
VII. October 2001–May 2002: Consultations on the Commission Proposal .....	16
VIII. May 2002: The Commission Proposal for a Council Regulation Concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and in Matters of Parental Responsibility Repealing Regulation (EC) No 1347/2000 and Amending Regulation (EC) No 44/2001 in Matters Relating to Maintenance .....	17
IX. November 2002: Report of the European Parliament on the Revised Commission Proposal .....	18

X. November 2002–November 2003: Heated Negotiations .....	20
XI. The Brussels II bis Regulation .....	21
XII. Conclusions .....	22
<b>3. Principles of Good Legislative Drafting vs Child Abduction</b>	
<b>Provisions of the Brussels II bis Regulation.....</b>	<b>25</b>
I. The Principles of Subsidiarity and Proportionality .....	26
II. The Consultation Policy .....	43
<b>4. The Argument of the Misuse of Article 13(1)(b): Myth or Reality?.....</b>	<b>47</b>
I. The Statistical Analysis of Applications made in 1999 under the Hague Convention on the Civil Aspects of International Child Abduction.....	48
II. Special Commission Meetings to Review the Operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.....	60
III. Conferences and Judicial Seminars.....	64
IV. Academic Literature.....	66
<b>5. Operation of the Brussels II bis Regulation: Empirical Study.....</b>	<b>70</b>
I. Background to the Empirical Study.....	71
II. Scope, Aim and Methodology of the Empirical Study .....	73
III. Findings of the Empirical Study .....	75
IV. Conclusions of the Empirical Survey.....	104
<b>6. Points of Concern.....</b>	<b>110</b>
I. More Liberal Interpretation of the Key Concepts of the Convention in Order to Avoid Judicial Refusals Based on Article 13 .....	110
II. Protection of the Abductor Parent and the Child upon the Return.....	136
III. Timing .....	161
IV. Judicial and Administrative Qualities in the ‘New’ Member States of the European Union .....	167
<b>7. Added Value of the Brussels II bis Regulation: A More Child-Centred     Approach as a Result of the Obligation to Hear the Child Introduced     by Article 11(2) of the Regulation .....</b>	<b>181</b>
I. EU Jurisdictions: England and Wales, Scotland, Ireland and Northern Ireland.....	183
II. Current Approaches Toward the Defence of Child’s Objections in Major Non-EU Jurisdictions: Australia, Canada and the United States: Post-2005 Case Law Analysis .....	214
<b>8. Conclusions .....</b>	<b>237</b>
<i>Index .....</i>	<i>249</i>