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A SYSTEMATIC STUDY OF THE EUROPEAN JUDICIAL AREA IN CIVIL AND COMMERCIAL MATTERS:COMPETENCE, RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS
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MODULE I

SUBJECT 3

THE COMMUNITARISATION OF PRIVATE INTERNATIONAL LAW. FREE CIRCULATION OF JUDICIAL DECISIONS IN THE E.U. AND THE PRINCIPLE OF MUTUAL RECOGNITION

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1. Introduction.

The establishment of a European judicial area has slightly altered the panorama of judicial authority at a national level.

For Rodríguez Iglesias this European area of justice goes beyond the scope of community law. It is not a question of facilitating application by a national judge of rights of supranational origin, but of relativising the existence of completely separate judicial powers.

There are various points of action in the European judicial area which were principally indicated in the conclusions of the European Council of Tampere of October 1999, with the common focus being the certainty that European judicial structures, built on an eminently national basis, do not provide an adequate response to the present needs of justice. Therefore, there is a need to ensure an increase in the compatibility and convergence of the judicial systems of the Member States.

An initial focus of action is the question of free legal aid, or access to justice, in addition to mutual recognition of judicial decisions, as well as provisional measures, the notification of legal decisions, and the taking of evidence.

2. Legal basis

As Fernández Rozas recalls, the constitutional Treaties of the EEC did not include any provision for matters of justice and domestic issues, only article 293 (formerly 220) of the TEC contained a provision on judicial cooperation, on the recognition and enforcement of legal decisions and arbitrator awards. The Single European Act set, as one of its objectives, the constitution of a domestic market which implied a space without internal borders which, logically, should be accompanied by the requisite measures to ensure security in this area without controls.

In 1992 the Maastricht Treaty (Treaty of the European Union-TEU) took an important step in acknowledging as one of its objectives “the development of a close cooperation in the field of Justice and Home Affairs (JHA**)”** regulating these criteria in its Title VI subject to the impetus of the Member States or the principle of governmental cooperation, but in this phase direct authorities were not attributed to community institutions, thus progress depended solely on the Ministries of Justice and Home Affairs of the respective Member States, and it was necessary to wait until the reform of the Treaty of Amsterdam, to achieve the long-awaited communitarisation.

Following Maastricht, it was up to the Member States to negotiate the establishment of the scope and limits of cooperation, by means of classic instruments of International Law such as, basically, Treaties. Nevertheless, intergovernmental cooperation was hampered by structural inefficiency since the decision making process was excessively bureaucratised, and the participation of community institutions was left aside.

Following modification of the EC Treaty by the Treaty of Amsterdam, it is now possible to speak in terms of the creation of a true European area of freedom, security and justice, which rejected an economistic vision to create a true Europe of citizens, with a common area of justice and respect for the rights and freedom of its citizens, communitarising judicial civil cooperation; thus, it was possible to abandon Conventions as a normative tool and make use of Regulations and Directives.

At this stage of community development, the existence of a common State of Law and a common protection of fundamental rights were sensed, and therefore with these premises it was not necessary to recognise a European Area of Justice, given that there was

no lack of confidence in the various Member States, due to the standard of common protection.

The creation of a European Area of Justice has contributed to creating legal certainty and security, granting equal rights to citizens in specific areas, avoiding the creation of biased policies in each of the Member States which would lead to inequality among citizens of different States.

3. The Extinct European Constitution

The European Constitution (EC) aimed to substitute EC constitutional Treaties and implied the constitutionalisation of the EU legal system, which would establish a clear and stable definition of the division of authorities between the Union and the Member States.

Art. I-3 of the EC established as one of the objectives of the Union, an area of security, freedom and justice without internal borders (art. 3) placing this issue within the shared competence of the Union and the Member States (art. I-13.2).

The area of security, freedom and justice would be constructed "with respect for fundamental rights and the different legal systems and traditions of the Member States "(art. 257.1): a) which will be achieved by adopting European laws (until now known as Regulations) and framework laws (until now known as Directives) where necessary, to approximate laws and regulations of Member States; b) by promoting mutual confidence between the competent authorities of Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions and c) by operational cooperation between the competent authorities of Member States (art. 42).

Other alternative instruments would be the European Regulations and the Decisions to be taken by the Council of Ministers, without prejudice to conventional channels, as a complementary mechanism.

In some areas, such as that of family law, which has cross border implications (art. 269.3), unanimous ruling is required after consulting the European Parliament.

This common Area will be governed at all times by respect for fundamental rights (art. 257)

4. The Treaty of Lisbon.

For the time being, and since the failure of the European Constitution, the first signing of the Treaty of 13 December 2007 has put the EU crisis to bed.

The simplicity provided by the Constitution has been replaced by a complex text, which comes with 13 protocols and 62 Declarations, i.e., and in the words of Paz Andrés Sáenz de Santa María, an opaque legal forest. Its constitutional character, or any feature that might evoke it, have been foregone.

This Treaty promotes the State element over the Community one and makes the possibility of enhanced cooperation more flexible.

Amongst its positive aspects is full communitarisation of judicial cooperation and criminal police, which up to now was an intergovernmental cooperation pillar. The figure of a European Public Prosecutor's Office is considered. Its functions would be to investigate, pursue and bring to judgment those perpetrators and accomplices of offences that could affect the financial interests of the EU; functions that could be extended in the future to all serious offences with cross-border implications.

Amongst its negative aspects, the fact that the concept of constitution has been abandoned should be mentioned.

The term “European Community” has been replaced by "European Union" throughout the Treaty and it has acquired a single legal personality.

The concept of “law” that was established in the European Constitution has been abandoned, with those of Directives and Regulations being maintained.

The Treaty of Lisbon includes a boost to Family Law, in its material sphere, in such cases where there are cross-border implications.

Otherwise, the former art. 65 of the Treaty Establishing the European Community (TEC) is very similar to the present-day art. 81, but we should highlight the expansive force that may be inherent to the new reference to the “measures that are necessary in order to guarantee effective protection for due process”, which far from being a ragbag, may be the legal basis for reinforcing civil cooperation.

We should also highlight the change in the regulations regarding pre-judicial issues, formerly dealt with in art. 234 TCE and now in art. 267 TFEU (Treaty on the functioning of the EU), so that all of the judicial bodies may issue preliminary rulings and not only those of last instance.

THE COMMUNITARISATION OF PRIVATE INTERNATIONAL LAW

1. Background

Title VI of the European Union Treaty, established by the Maastricht Treaty of 1992, which refers to cooperation in Justice and Home Affairs, showed greater interest in private international law, which corresponds to a widening of community objectives.

Despite maintaining art. 220, it was on art 1 K.3 that two Conventions were based: that of the Convention on service of judicial and extrajudicial documents in civil or commercial matters of 26 May 1997 and that of the Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children of 28 May 1998, known as the “Brussels II” Convention for the link with its forerunner, the Brussels Convention of 1968. At this time, another Convention was signed on 23 November 1995 on Insolvency Proceedings, with the three conventions acquiring the legal form of Regulation.

2. Present

a) The new legal basis: arts. 61 c) and 65 of the European Community Treaty (TEC). Now art. 81 TFEU.

Following modification of the TEC by the Treaty of Amsterdam, a new Title IV was introduced, which included arts. 61 to 69, aimed at establishing a genuine common European area of security, freedom and justice.

Following this amendment, legal instruments are now Regulations, that is, the most powerful enforcement instrument in the community, given the greater unification it entails with respect to the Directives. The adoption of a Directive, a rejected system, would mean a step backwards, since it would give rise to divergent constructions when transposed to the various Member States.

Therefore, the Regulation was the chosen option for matters such as jurisdiction, recognition and enforcement of judicial and extrajudicial decisions in civil and commercial

matters (Brussels I), *idem* in matrimonial issues and parental responsibility (Brussels II and Brussels II bis), on matters of service of documents, taking of evidence and insolvency proceedings.

As mentioned earlier, the first three Regulations to be approved (Brussels II, insolvency and service) stem from the respective conventions between Member States which did not come into force, since the Regulation option was adopted; however, those conventions were originally accompanied by explanatory reports, prepared by the Reporter of the Convention and approved by the respective working group, so that this document was actually an "authentic construction" of the convention. Nevertheless, given that a Regulation is a derived rule, it is not possible for it to be accompanied by an explanatory report; however, although they were not ratified, Brussels II and Service were publicly known as Conventions, so we were able to make use of those reports, although the report on Insolvency drafted by Miguel Virgós and Etienne Schmidt, was not published despite a need for it, given the complexity of the question.

In view of their usefulness, the UE Commission considers that future Regulations should include explanatory guides that would help in their construction and uniform application.

Communitarisation has the peculiarity that these Regulations may be constructed by the Court of Justice of the European Community pursuant to art. 81 TFEU TEC in relation to art. 267 of the same legal text. .

It is appropriate to recall here that Denmark remained outside Title IV of the EC Treaty, despite the fact that it is a member of the EC, rejecting the reinforced policy of the aforementioned title. Thus, it has rejected the entry into force in its State of the Community Regulations mentioned below.

b) Results obtained to date

- Regulation (EC) no. 805/2004 of the European Parliament and the Council of 21 April 2004, which established an enforcement order for uncontested claims.
- Regulation (EC) no. 2201/2003 of the Council of 27 November 2003, concerning jurisdiction, and recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, repealing (CE) no. 1347/2000 (*Brussels II bis*).
- Regulation (EC) no. 1206/2001 of the Council of 28 May 2001, on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters,.
- 2001/470/EC: Council Decision, of 28 May 2001, establishing a European Judicial Network in civil and commercial matters.
- Regulation (EC) no. 44/2001 of the Council of 22 December 2000, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters *(Brussels I*).
- Regulation (EC) no. 1347/2000 of the Council, 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 (*Brussels II*).
- Regulation (EC) no. 1346/2000 of the Council, of 29 May 2000, on insolvency proceedings.
- Regulation (EC) no. 1896/2006 of the European Parliament and the Council of 12 December 2006, creating an order for payment procedure.

- Regulation (EC) no. 861/2007 of 11 July establishing a European Smalls Claim Procedure.
- Regulation on the law applicable to contractual regulations (replaces in the EU the Rome Convention on the same subject), which at the time of publication of this work was approved but not published).
- Regulation (EC) no. 864/2007 of the European Parliament and the Council of 11 July 2007 on the law applicable to extracontractual obligations (Rome II).
- Council Regulation (EC) no. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations

3. The future.

At the Council of Tampere of 15 and 16 October 1999, a radical establishment of the principle of mutual recognition of judicial decisions was encouraged to be put in place, in order to abolish the exequatur procedure.

Since then, with Brussels II bis, progress has been made in the recognition of automatic visiting rights so that legal control is in the hands of the body issuing the judgment, and the other legal body involved is simply required to directly enforce that judgment. Progress still needs to be made on the consequences of division of property in matrimonial disputes and matters of wills and inheritance, so a Tampere 2 is likely on the cards.

All this leads to the need to create common bases in substantive law so that recognition of judgments does not encounter any obstacles within a genuine area of justice, and for example the courts of Marseille communicate with the ones in Malaga ones as easily as with the courts in Toulouse.

Finally, work is being done on the abolition of the exequatur procedure in judgments based on small claims, which appear linked to consumer protection and alternative dispute resolutions. In addition, attempts are being made to create injunctions at a European level, a European embargo of bank assets and a regulatory instrument on the law applicable to extracontractual obligations, which would complete the existing law on contractual obligations (Rome Convention).

In short, communitarisation has through Directives and, basically, Regulations, enabled European citizens to have an area of common justice, based on directly applicable norms, such as Regulations, which do not require any further legal development, thereby strengthening certainty in legal relations.

For Pérez Vera, the Regulation ensures simultaneous entry into force in all Member States and it is particularly respectful in terms of legal security, in addition to adapting perfectly to the nature of the issues considered.

For Professors Pérez Vera and Borrás, further to these Regulations, the possibility of States formalising international conventions on the same issues will be curtailed.

As Fernández Rozas mentions, the Treaty of Amsterdam represented communitarisation of judicial cooperation in civil matters, enabling the existence of an EU International Private Law, unthinkable barely a few years ago, and which will inexorably give rise to the harmonisation of substantive law, particularly that of obligations and contract, as was forecast in Chapter VII of the Conclusions of the Council of Tampere of 15 and 16 October 1999. However, it is unfortunate that there is no express reference in the European Constitution to the need for harmonisation of substantive law, being restricted solely to judicial cooperation in civil matters with cross-border implications which “may include the

adoption of measures for the approximation of the laws and regulations of the Member States" (art. 269).

It is the **Hague Programme,** drafted at the Brussels Summit of 4 and 5 of November 2004, which established the action plan for the next five years, namely:

1. An increase in the means of mutual recognition in matters of food requirements and obligations, including interim measures and provisional enforcement.
2. A green paper on conflicts of law regarding succession. A European certificate of inheritance.
3. A green paper on conflicts of law regarding divorce matters (Rome III).
4. A green paper on conflicts of law regarding ownership of matrimonial assets.
5. Codification of community contractual law.

The current Stockholm programme follows the outlines already traced, with emphasis on the following points:

1. Abolition of the exequatur procedure.
2. Streamlining of procedural regulations regarding custody law.
3. Access to justice.
4. Training for legal professionals.
5. Parental responsibility

FREE CIRCULATION OF JUDICIAL DECISIONS

The entry into force of the Treaty of Amsterdam meant the transfer of judicial cooperation in civil matters from the third pillar to the first pillar (article K.1 (6) EUT). According to c) article 61 and article 65 of the constitutional Treaty of the European Community, the Community will adopt measures in the area of judicial cooperation in civil matters with cross border implication and to the extent required for correct operation of the internal market.

These measures include the improvement and simplification of recognition and enforcement of judgments in civil and commercial matters. Regulation (CE) no. 44/2001 of the Council, of 22 December 2000, relating to jurisdiction, recognition and enforcement of judicial decisions in civil and commercial matters, which entered into force on 1 March 2002, represents a significant advance in the simplification of the procedure to obtain an enforcement order (exequatur) as opposed to the Brussels Convention of 1968 on jurisdiction and application of judgments in civil and commercial matters, which it has replaced, with the exception of Denmark. In accordance with this Regulation, the enforcement order will be issued following certain formalities, and it may only be challenged by means of an appeal by the other party. Despite these changes and simplification, it does not abolish all the obstacles to unrestricted movement of judgments within the European Union and leaves halfway measures which are still too restrictive.

The meeting of the Council of Europe in Tampere on 15 and 16 October 1999 approved the principle of mutual recognition of judgments and other decisions of the judicial authorities as the cornerstone of judicial cooperation which was to be established in the Union. In civil matters, the European Council requested a new reduction in intermediate measures required to permit the recognition and enforcement in a Member State of a judgment issued in another Member State. As an initial step, it was suggested that automatic recognition be introduced, without any intermediate procedure or argument for refusing enforcement, for specific types of claims, possibly together with the determination of minimum regulations on particular

aspects of procedural law. The European Council asked the Council and the Commission to adopt, prior to December 2000, a programme of measures for application of the principle of mutual recognition and the start of work on a European Enforcement Order, and on aspects of procedural law on which it was deemed necessary to have minimum regulations in common, in order to facilitate the application of the principle of mutual recognition. The joint Commission and Council programme of measures to facilitate the application of the principle of mutual recognition of judicial decisions in civil and commercial matters, adopted by the Council on 30 November 2000, indicated as one of the main priorities of the Community, the abolition of the exequatur procedure for unattested claims. Pointing out the contradiction in the delay of enforcing judicial decisions in respect of claims unattested by the debtor, due to an exequatur procedure, the programme designated this situation as the first in which the exequatur procedure should be abolished, since the rapid recovery of outstanding debts is an absolute necessity for business activity and a constant concern for financial sectors, whose main interest is the correct functioning of the internal market.

MUTUAL RECOGNITION

The Council fulfilled the invitation of the European Council by drafting 2001/C12/01, known as the «Project for measures for the application of the principle of mutual recognition in judgments in civil and commercial matters». The programme clearly set the objectives and stages to be implemented in coming years in order to apply the principle of recognition and admits, in an inconclusive manner, a clear double reality, namely that this principle had been applied in a limited way up to then, since it had not been included, on one hand, in the valid instruments of many areas of private law, as occurred for example, with the situation of families arising from different matrimonial relations, and inheritances, and on the other hand, because there were obstacles to the free circulation of legal judgments. In this respect, it is accepted without hesitation that the intermediate procedures which permit a judgment issued in a Member State to be enforced in another, are still too rigorous, characterised by the fact that the changes and simplifications provided in terms of recognition and enforcement of judgments in the Brussels I Regulation do not remove the obstacles to free circulation in the European Union. The position adopted to establish the programme was articulated in the following manner: 1.°) to decide the areas where progress is required, 2.°) determine the nature, manner and scope of possible progress and 3.°) set the stages of progress.

With regard to the areas of recognition, the Project emphasised that matters which at the time were excluded from the scope of application of the Brussels Convention of 1968, and from the Brussels I Regulation, were not yet included in the instruments proposed by both texts, and that the Brussels II Regulation of 29 May 2000, applies to procedures concerned with obligations of parents in respect of children of both spouses as a result of matrimonial action, mentioned in the previous point. Therefore, as a result, specific aspects of divorce or separation are excluded from the aforementioned Regulation, such as family situations arising from different marital relations, matrimonial regimes, wills and inheritances.

The Project proposes the adoption of legal instruments in two distinct areas which are not yet included in any body of regulations: 1) international jurisdiction, recognition and enforcement of judgments in matters of dissolution of matrimonial regimes, the hereditary consequences of separation of unmarried couples, and successions and 2) international jurisdiction, recognition and enforcement of judgments in matters of parental responsibility and other non-patrimonial aspects of separation of couples.

In the areas already included in the instruments in force, the right to visiting, maintenance, unattested claims, and small claims were given priority, and the abolition of the exequatur procedure was proposed in the first three cases, and the simplification and acceleration of judgments issued in cross border legal actions for small claims, by establishing special regulations for common procedures or minimum regulations to facilitate recognition and enforcement of those judgments.

The solution proposed in the Project for new degrees of recognition is not the most appropriate, in that it is based on a distinction which is plainly not very consistent, i.e. that of discriminating between areas which are or are not already included in existing instruments, since with respect to the latter, a progressive method is planned, *id est*, to reach the degree currently achieved with the Brussels II Regulation, before reaching that of Brussels I, albeit without excluding the possibility of reaching, directly in specific cases, new levels of recognition bypassing the intermediate phase.

With respect to the former, it is planned to go further by adopting two types of measures, namely: 1) those designed to reduce intermediate measures and consolidate the effects in one State of the enforcement of judgments originating in another State. In this respect, the following are mentioned: a) reduction of the number of motives which may be raised in opposition to the recognition or enforcement of a judgment of another State, b) creation of a provisional type of enforcement so that the enforceable nature of the judgment in the required country is valid and is also enforceable provisionally, without this preventing the possibility of appeals, c) implementation of interim measures at a European level, so that a Member State has the authorisation to proceed throughout the whole of the Union in the application of interim measures in respect of the assets of a debtor and d) the improvement of bank attachments, for example by implementing a European bank assets attachment: when the enforcement order of a judgment in a Member State has been issued, the preventive attachment may proceed in any Member State, without the exequatur procedure and with full rights, of the debtor's bank assets. The decision would be effective in the country of attachment, at least for its purposes, in the event that the debtor does not appeal against the decision.

The second series of measures would consist of the complete abolition of intermediate measures; the abolition of any type of control by the Judge of the State affected by the demand for implementation of the judgment issued in another Member State which would enable any national instrument to circulate freely within the Community. This national instrument would have the same consideration in the State where enforcement is required as any judgment issued in that State.

COMPLEMENTARY MEASURES FOR MUTUAL RECOGNITION

Above all, since it is necessary, and even indispensable, it is planned to establish, at a European level, a specific number of procedural regulations which will provide minimum common guarantees for consolidating mutual confidence between the legal systems of the Member States; guarantees which will specifically ensure the strict compliance with the requirements of a fair procedure, in line with the European Convention for the Protection of Human Rights and Basic Freedoms. In certain areas, in particular when it is planned to remove the exequatur procedure, the definition of these minimum guarantees may constitute a prior condition to the desired advancement. If the establishment of minimum guarantees is insufficient, work should be done on harmonising procedures.

Other measures which could be adopted would be, either to make enforcement of one Member State's judgment in another Member State more efficient, mentioning in this respect the fact that the enforcement of judgments in the European Union could be easier if it were possible to obtain accurate knowledge of the debtors' financial situation, or either to permit the application of the principle of mutual recognition to be integrated into a more favourable context, that is, within the framework of greater cooperation between the legal authorities of the Member States. Among such measures, a European judicial network in civil and commercial matters has been mooted, and also the creation of an instrument which would permit increased cooperation between the legal authorities of Member States in civil and commercial matters, measures which would enable citizens to have easier access to justice, and which would provide more information to the public on applicable regulations in matters of recognition, and, finally harmonisation of standards regarding conflicting laws, areas of action and phases.

In addition, the programme considers four areas of action – those raised by the Brussels I Regulation, those covered by the Brussels II Regulation and the family situations arising from different matrimonial situations, matrimonial regimes and successions – and for which phases were established in each area in order to advance progressively, with the possibility of adopting various concomitant initiatives in different fields in addition to the complementary measures mentioned in the programme, provided that that are necessary in all the areas and all the phases of enforcement.

A) In the areas covered by the Brussels I Regulation, the first phase would cover the European enforcement order for unattested claims, simplification and acceleration of the result of cross border legal actions for small claims and the abolition of the exequatur procedure for maintenance payments.

The second phase would include the revision of the Brussels I Regulation: integration of the previous advances, extension of the abolition of the exequatur procedure, and generalisation of the measures used to reinforce the effects of judgments issued in one State in another State (provisional enforcement, interim measures including the attachment of bank assets).

The third phase would be limited to abolishing the exequatur procedure in the areas covered by the Brussels I Regulation.

B) In the areas of family law (Brussels II and family situations arising from different matrimonial relations): the first stage would cover the abolition of the exequatur procedure for decisions relating to visiting rights, the adoption of an instrument for family situations arising from different matrimonial relationships; an instrument which could either be new or a revised version of that of the Brussels II Regulation, and, finally, the extension of the application of the instrument or instruments adopted previously for judgments which modify the conditions of the exercise of parental responsibility, defined in decisions adopted at the time of divorce or separation.

The second phase would consist of the application of simplified procedures of recognition and enforcement of the Brussels I Regulation, and measures designed to reinforce the effects of the previously adopted instruments in one State in respect of judgments issued in another, (provisional enforcement and interim measures).

The third phase would entail the abolition of the exequatur procedure for the areas covered by the Brussels II Regulation and for family situations arising from different matrimonial relations.

C) Dissolution of matrimonial regimes and patrimonial consequences of separation of unmarried couples:

First stage.- Creation of one or various instruments for jurisdiction, recognition and enforcement of judgments in a series of matrimonial regimes and the patrimonial consequences of separation of unmarried couples: adoption of the Brussels II Regulation mechanisms.

Second Stage.-Revision of one of the instruments created in the first stage;

- Application of simplified procedures of recognition and enforcement of the Brussels I Regulation.
- Measures designed to reinforce the effects in one State of decisions issued in another State (provisional enforcement, and interim measures).

Third stage.-Abolition of the exequatur procedure for those areas covered by the established instrument or instruments.

D) Wills and inheritance:

First stage.- Creation of an instrument for the jurisdiction, recognition and enforcement of decisions issued in matters of wills and inheritance; adoption of the Brussels II Regulation mechanisms.

Second stage.-Revision of the instrument devised in the first stage:

- Application of simplified procedures of recognition and enforcement.
- Measures designed to reinforce the effects in one State of judgments issued in another Member State (provisional enforcement and interim measures).

Third stage.- Abolition of the exequatur procedure for areas covered by the established instrument.

E) Complementary Measures:

The adoption, from the start of the programme, of measures pertinent to an instrument for the taking of evidence and the creation of a European judicial network in civil and commercial matters.

In addition, for each area of the programme, and at each stage or phase, the following complementary measures may be considered: minimum standards on civil procedure; measures which would facilitate the enforcement of decisions, including those which would provide knowledge of a debtor's assets; measures designed to facilitate access to justice; measures designed to facilitate the provision of information to the public and, finally, measures relating to the harmonisation of regulations in conflicts of laws.

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