

Child Maintenance, Department for Work and Pensions

Response to MOJ Call for Evidence received via Citizen Space

Q1 What are the advantages and/or disadvantages to businesses and/or individuals in the UK of EU civil judicial cooperation? You may wish to focus on a particular instrument.

In child maintenance, it allows those parents within the statutory system to have a reliable way of enforcing maintenance payments for their children, when absent parents move out of the UK's jurisdiction.

It also allows these parents to seek to recover arrears of maintenance owed whilst the absent parent was in the UK.

Q2 What is the impact of EU civil judicial cooperation on UK civil and family law?

No response.

Q3 How is civil judicial cooperation necessary for the functioning of the internal market? Which aspects support and/or hinder it?

In accordance with section 44 of the Child Support Act 1991, an application for child maintenance can only be accepted when the parent with care (PWC), qualifying child or children (QC) and the non-resident parent (NRP) are all habitually resident within the UK. The exception to this rule is where the non-resident parent is abroad but is:

- employed by a UK company whose payroll is UK based,
- a member of HM forces,
- a Crown employee,
- employed by an NHS Trust or other health body listed in regulation 7A(2A) of the Maintenance Arrangement and Jurisdiction Regulations,
- a local authority.

If there are no arrears owing in the Child Support Agency (CSA) case, and the non-resident parent moves abroad, the Agency will have no choice but to 'close' the CSA case and advise the parent to contact either Reciprocal Enforcement of Maintenance Orders Unit (REMO) or their local court to enforce ongoing child maintenance payments through the relevant court in the country the NRP resides in.

Q4 Are there any areas where EU competence in this area has led to unintended and/or undesired consequences for individuals and companies in the UK? Please give examples.

I'm afraid as DWP (Child Maintenance) is no longer acting on behalf of the parent seeking child maintenance once an application has been made to REMO, the effectiveness of the EU Maintenance Regulation in securing and enforcing maintenance can only be measured by REMO.

Q5 What are the advantages and/or disadvantages of the opt-in for the UK?

For child maintenance purposes, the advantages of 'opting in' are that at least for single parents in the UK, there is a better and more efficient way of locating absent parents and enforcing maintenance payments against them, although perhaps the speed in which this is done could be improved. Opting out of the EU could seriously detriment these families (and in particular, those with low incomes), as there would be no structured or organised method for those seeking maintenance from absent parents and any success they may achieve, may be over a long period and rather costly.

Q6 What are the advantages and/or disadvantages of the cross-border requirement for the UK's national interests?

Already laid out in previous responses.

Q7 What impact might any future enlargement of the EU have on civil judicial cooperation?

It would mean that parents in the UK would have a greater opportunity to seek to enforce maintenance from absent parents located further afield. However, it could also mean more applications to UK courts, through the EU Maintenance Regulation from countries within that 'enlargement', for absent parents living in this country who are not voluntarily meeting their maintenance responsibilities. Added resource pressures on REMO and local courts.

Q8 What future challenges and opportunities are there in the area of EU civil judicial cooperation?

No response.

Q9 What are the advantages and/or disadvantages to the UK of the EU's powers to act internationally in this area?

The advantages are that absent parents cannot evade their responsibilities to financially supporting their children, by leaving the UK.

Q10 What would be the advantages and/or disadvantages to the UK of action being taken at an international rather than EU level?

Action being taken at an international, rather than EU level, would further allow parents to have a better chance of enforcing maintenance from absent parents. Although specific data is not available, it could be assumed that the majority of UK citizens who leave the UK, leave for work reasons (therefore will usually have a reliable income from which to enforce payments from). Perhaps more importantly, of those who leave, many will travel to countries outside of the EU such as Australia, USA, Canada and New Zealand. Therefore, better cooperation with these countries will further improve outcomes for children, financially.