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Brussels IIb Regulation - Matrimonial matters and matters of parental responsibility (recast)

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Poland

Article 103 (1) (a) (1st part) – Public authorities or other authorities authorized to establish an authentic instrument referred to in point (2)(b) of Article 2(2), and public authorities authorized to register an agreement referred to in point (3) of Article 2(2)

None.

Article 103 (1) (a) (2nd part) – Administrative authorities granting legal aid referred to in Article 74(2)

None.

Article 103 (1) (b) (1st part) – Courts competent to issue certificates for a decision pursuant to Article 36(1), and courts and authorities competent to issue a certificate for an authentic instrument or agreement referred to in Article 66

Article 36(1)

The Court of a Member State of origin shall, upon application by a party, issue a certificate for:

a) a decision in matrimonial matters using the form set out in Annex II;

the regional court (*sąd okręgowy*) that gave the decision;

b) a decision in matters of parental responsibility using the form set out in Annex III;

the district court (*sąd rejonowy*) that gave the decision;

the regional court that gave the decision in matters concerning divorce, legal separation or marriage annulment with regard to a ruling on parental responsibility;

c) a decision ordering the return of a child as referred to in point (a) of Article 2(1), and, where applicable, any provisional, including protective, measures ordered in accordance with Article 27(5) accompanying the decision using the form set out in Annex IV;

Białystok Regional Court

Gdańsk Regional Court

Katowice Regional Court

Kraków Regional Court

Lublin Regional Court

Łódź Regional Court

Poznań Regional Court

Rzeszów Regional Court

Szczecin Regional Court

Warsaw Regional Court

Wrocław Regional Court

Article 66 does not apply.

Article 103 (1) (b) (2nd part) – Courts competent to rectify certificates referred to in Article 37(1), Article 48(1), and courts competent to issue a certificate specifying that the lack or limitation of a certified decision referred to in Article 49; and courts and authorities competent to rectify the certificate, issued under Article 66(1), referred to in Article 67(1);

Article 37(1)

The court of a Member State of origin shall, upon application, and may, of its own motion, rectify the certificate where, due to a material error or omission, there is a discrepancy between the decision to be enforced and the certificate.

The court that gave the decision (district court or regional court).

Article 48(1)

The court of a Member State of origin shall, upon application, and may, of its own motion, rectify the certificate where, due to a material error or omission, there is a discrepancy between the decision and the certificate.

The court that gave the decision (district court or regional court).

Article 49

Where and to the extent that a decision certified in accordance with Article 47 has ceased to be enforceable or its enforceability has been suspended or limited, a certificate indicating the lack or limitation of enforceability shall, upon application at any time to the court of the Member State of origin, be issued, using the standard form set out in Annex VII.

The court that gave the decision (district court or regional court).

Article 66 does not apply.

Article 103 (1) (c) – Courts competent for recognition of a decision (Article 30(3)) and for the refusal of recognition (Article 40(2)), as well as the courts and authorities competent for refusal of enforcement, for challenge or appeal, and for further challenge or appeal referred to in 58(1), 61(2) and 62

Article 30(3)

Any interested party may, in accordance with the procedures provided for in Articles 59 to 62 and, where appropriate, Section 5 of this Chapter and Chapter VI, apply for a decision that there are no grounds for refusal of recognition referred to in Articles 38 and 39.

A regional court.

Article 40

1. The procedures provided for in Articles 59 to 62 and, where appropriate, Section 5 of this Chapter and Chapter VI shall apply accordingly to an application for refusal of recognition.

2. The local jurisdiction of the court shall be determined by the law of the Member State in which proceedings for non-recognition are brought.

A regional court.

Article 58(1)

The application for refusal of enforcement based on Article 39 shall be submitted to a **regional court**.

The application for refusal of enforcement based on other grounds set out in or permitted by this Regulation shall be submitted to **the court responsible for enforcement of the decision**.

Article 61(2)

The challenge or appeal shall be lodged with the authority or court communicated as the authority or court with which such a challenge or appeal is to be lodged.

A court of appeal (*sąd apelacyjny*) and, in the case of Article 58(1), a higher court than the court responsible for enforcement of the decision.

Article 62

An appeal to a court of appeal.

An appeal in cassation to the Supreme Court (*Sąd Najwyższy*).

With regard to Article 58(1), there are no judicial remedies.

Article 103 (1) (d) – Authorities competent for enforcement referred to in Article 52

Article 52

The application for enforcement shall be submitted to the authority competent for enforcement under the law of the Member State of enforcement.

- **A regional court** - in relation to decisions given by a court in a third State ordering the return of a child pursuant to the 1980 Hague Convention or the removal of a child pursuant to the 1980 Hague Convention.

- **A district court** - in relation to decisions concerning parental responsibility.

Article 103 (1) (e) – Redress procedures against a decision on the application for refusal of enforcement referred to in Articles 61 and 62

Article 61(2)

The challenge or appeal shall be lodged with the authority or court communicated as the authority or court with which such a challenge or appeal is to be lodged.

A court of appeal.

Article 62

The Supreme Court.

Article 103 (1) (f) – Names, addresses and means of communication for the Central Authorities designated to assist with the application of the Regulation in matters of parental responsibility. In case more than one Central Authority is designated, geographical and functional jurisdiction of each Central Authority to be indicated as referred to in Article 76

Central Authority:

Minister for Justice

The functions of the Central Authority are performed by:

International Family Proceedings Unit (*Wydział Międzynarodowych Postępowañ Rodzinnych*)

Department for Affairs concerning Families and Minors (*Departament Spraw Rodzinnych i Nieletnich*)

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E-mail: sekretariat.dsrin@ms.gov.pl or polandchildabduction@ms.gov.pl

Article 103 (1) (g) – If applicable, categories of close relatives, in addition to parents, with which the child may be placed within the territory of a Member State, without the prior consent of that Member State as referred to in Article 82

None.

Article 103 (1) (h) – Languages of the institutions of the European Union other than the own language of a Member State, in which communications to its Central Authorities can be accepted as referred to in Article 91(3))

Polish, German and English.

Article 103 (1) (i) – Languages accepted for the translations of requests and accompanying documents sent under Articles 80, 81, 82, and of the free text fields of the certificates as referred to in Article 91(2)

Polish.

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