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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.4.2009  
COM(2009) 181 final

### **COMMISSION OPINION**

**on the request from the United Kingdom to accept Regulation (EC) No 4/2009 of the Council of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations**

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### 1. INTRODUCTION

1. On 18 December 2008, the Council adopted Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (hereafter referred to as Regulation 4/2009)<sup>1</sup>. Pursuant to Article 1 of the Protocol on the position of the United Kingdom and Ireland, the United Kingdom did not participate in the adoption of the said Regulation.
2. However, by virtue of Article 4 of the said Protocol, the United Kingdom "may at any time after the adoption of a measure by the Council pursuant to Title IV of the Treaty establishing the European Community notify its intention to the Council and to the Commission that it wishes to accept that measure. In that case, the procedure provided for in Article 11(3) of the Treaty establishing the European Community shall apply *mutatis mutandis*."
3. By letter of 15 January 2009, received by the Commission on 17 January 2009, the United Kingdom notified the Commission that it wishes to accept Regulation 4/2009.
4. In accordance with Article 11A of the Treaty establishing the European Community regarding enhanced cooperation, which also applies *mutatis mutandis*, the following procedure applies: "Any Member State that wishes to participate in enhanced cooperation established in accordance with Article 11 shall notify its intention to the Council and the Commission, which shall give an opinion to the Council within three months of the date of receipt of that notification. Within four months of the date of receipt of that notification, the Commission shall take a decision on it, and on such specific arrangements as it may deem necessary."
5. In accordance with the terms of the said Article, the Commission gives the following opinion to the Council.

### 2. OPINION

The Commission welcomes the request from the United Kingdom to accept Regulation 4/2009 which is a central element of the Community *acquis* in the area of civil justice. It therefore gives a positive opinion on the said participation. The Commission points out that if the United Kingdom will be bound by the 2007 Hague Protocol on the law applicable to maintenance obligations following the conclusion by the Community of that Protocol, its decisions will circulate freely in the Community on the basis of Chapter IV, Section 1 of Regulation 4/2009. If the United Kingdom will not be bound by the said Protocol, its decisions will be subject to an *exequatur* procedure pursuant to Chapter IV, Section 2 of Regulation 4/2009.

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<sup>1</sup> OJ L 7 of 10 January 2009, p. 1.

.The Regulation should enter into force in the United Kingdom from the date of notification to the United Kingdom of the Commission Decision on its request. As in the case of the other Member States, Articles 2(2), 47(3), 71, 72 and 73 of the Regulation should apply from 18 September 2010. The other provisions of the Regulation should apply from 18 June 2011, subject to the 2007 Hague Protocol on the law applicable to maintenance obligations being applicable in the Community by that date. Failing that, the Regulation should apply from the date of application of that Protocol in the Community.