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BRUSSELS POWER GRAB FOR DIVORCE COURTS SLATED IN NEW REPORT

Moves by Brussels to force UK courts to apply foreign laws in divorce cases are condemned today (Sunday) by a major new report from a leading think-tank.

The study published by the Centre for Social Justice reveals that EU officials are seeking to tear up 200 years of legal precedent and to require English and Welsh courts to follow foreign jurisdictions where the divorcing couple comes from another EU country.

The report *European Family Law: Faster Divorce and Foreign Law*, written by David Hodson also repudiates the EU's decision, to require divorce proceedings of so-called 'international couples' to be heard in the first court to receive the relevant papers.

It warns that this arrangement, known as Brussels II, is contributing to family breakdown by encouraging an aggrieved spouse to rush to law without considering the scope for mediation and reconciliation.

This 'race to the courts' is happening because divorce law varies greatly across the EU and some countries have lax rules covering division of family assets, legal aid and financial disclosure. In parts of the EU, divorce disputes are allowed to drag on for years, creating a further incentive for the wealthier and more powerful partner in a marriage to lodge a petition on seemingly favourable territory and to disadvantage the spouse, usually the woman.

The report from the CSJ, which was set up by the former Conservative leader Iain Duncan Smith, proposes a simple but radical change to EU law under which the divorce of a couple of differing nationalities would be heard in the country with which they had the closest connection.

Such a change would halt the undignified and anti-family scramble to be first to lodge divorce papers in the hope of gaining a legal advantage. It will also render redundant the EU's campaign to bring in so-called 'applicable law' and require English and Welsh courts to follow foreign divorce laws.

Mr Duncan Smith said: "Family law is a highly sensitive matter, reflecting the values and traditions of our country. As such it a matter of national sovereignty and should not be laid aside in the name of legal harmonisation by Brussels. There is a simple answer couples should be required to seek redress in the court of the country where they have lived most of their married lives."

The report warns that the break-up of international couples is a growing problem. One in seven of the 2.2 million marriages every year across the EU involves people from differing member states.

But at the same time, deep cultural differences persist over marriage and the family, reflected in widely varying divorce laws across Europe and differing arrangements for financial disclosure, legal aid, division of assets, maintenance payments and child custody and access. Nonetheless, Brussels is actively seeking to harmonise family law among member states.

The report says that the rule requiring divorces to be heard in the first court to receive the papers "favours the wealthy, the one initiating the relationship break-up and the one who is not prepared to consider mediation and counselling."

It adds: "It is difficult to conceive of a more anti-family concept, or one that is more out of step with the whole global ethos of family law practice and pro-marriage policies."

It says that applicable law is "completely alien" to courts in England and Wales. If introduced, as the EU wants, it would slow down cases, push up legal costs and benefit payments, and reduce divorce settlements.

"All family lawyers in England and Wales would be dramatically affected. England would have to apply laws not debated by the English Parliament, even contrary to the principles of English law and English justice.

"It would make the most dramatic changes to English family law since family law left the ecclesiastical courts 200 years ago.

"Applicable law would create the injustice of different outcomes in identical cases heard consecutively before the family courts in England and Wales due simply to different laws being applied."

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NOTES TO EDITORS

The Centre for Social Justice is an independent think tank established, by Rt Hon Iain Duncan Smith MP in 2004, to seek effective solutions to the poverty that blight parts of Britain.

In July 2007 the group published Breakthrough Britain. Ending the Costs of Social Breakdown. The paper presented over 190 policy proposals aimed at ending the growing social divide in Britain and to reduce the £102bn financial cost of social breakdown.

Additional quote which I have given to the Observer, ...report author David Hodson added, “Brussels should go more slowly in its programme of European family law reform to take account of the very different traditions of family life and family law around Europe. Some seemingly minor changes in family law can have dramatic impact relationships, families and community life and need much care and reflection before implementation.”