



STATES OF GUERNSEY



UK Review of the Balance of Competences with the EU on Civil and Family Judicial Cooperation: Contribution of the Crown Dependencies

Legal and constitutional context

The Crown Dependencies (the Isle of Man and the Bailiwicks of Guernsey and Jersey) are largely self-governing, with their own parliaments, tax and legal systems, but the UK retains ultimate responsibility for their international relations and defence.

Current state of EU competence regarding the Crown Dependencies

The Crown Dependencies are not members of the EU. However some aspects of EU law apply to them, as set out in Protocol 3 to the UK's Treaty of Accession to the European Union, which essentially relates to trade in goods and the EU Customs Union. For other purposes they are treated as third countries, although they are closely integrated into the UK and EU policy and regulatory frameworks and have significant economic and cultural ties to the UK and other Member States.

Crown Dependencies' interests related to EU action in the area of Civil and Family Judicial Cooperation

The Crown Dependencies are outside the EU for the purposes of Civil and Family Judicial Cooperation, the Justice and Home Affairs provisions of the EU Treaties are not covered by Protocol 3. EU legislative provisions in respect of maintenance orders therefore do not apply to the Crown Dependencies.

At present, the Guernsey Courts do not recognise maintenance orders made in Member States other than the United Kingdom and its Crown Dependencies. The Guernsey Courts may recognise other civil judgments arising from other Member States (other than the United Kingdom, in relation to which there exists a reciprocal agreement between the higher courts) according to established common law principles, but there is no reciprocal recognition as envisaged by the various European Conventions.

Jersey's and Isle of Man's system for recognition of foreign maintenance awards is done by virtue of the UN Convention on the Recovery Abroad of Maintenance 1956 ('New York Convention') and the Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations 1973 ('Hague Convention'), which are implemented by local legislation. Accordingly, an application may be made for the recovery of maintenance in Jersey and the Isle of Man by person in a country which is party to one of these agreements.