

# Jurisdiction, recognition and enforcement of judgments in civil and commercial matters: Lugano Convention

2008/0048(AVC) - 29/02/2008 - Initial legislative proposal

**PURPOSE:** to conclude the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, on behalf of the Community.

**PROPOSED ACT:** Council Decision.

**CONTENT:** on 16 September 1988, the Member States signed an international agreement with the Republic of Iceland, the Kingdom of Norway, and the Swiss Confederation on jurisdiction and the enforcement of judgments in civil and commercial matters (the Lugano Convention), thereby extending to Iceland, Norway, and Switzerland the application of the rules of the Brussels Convention of 27 September 1968 on the same subject matter (the "Brussels Convention").

Negotiations on a revision of the Brussels and Lugano Conventions were undertaken during the years 1998-1999 in the context of an *ad hoc* Working Party enlarged with Switzerland, Norway and Iceland. These negotiations led to the adoption of a text of a draft convention prepared by the Working Party, which was confirmed by the Council on 27 and 28 May 1999.

Since the entry into force of the Amsterdam Treaty on 1 May 1999, the matters covered by the 1968 Brussels Convention have become the subject of Community policy, pursuant to Articles 61(c) and 65 of the EC Treaty. As a result thereof, the 1968 Brussels Convention has been converted into a Regulation, in particular Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

In the light of the parallelism between the "Brussels" (EC) and the "Lugano" regimes on jurisdiction, recognition and enforcement of judgments in civil and commercial matters, the 1988 Lugano Convention needs to be adapted in order to reflect the evolution of the "Brussels" regime. In particular, it is important to align the system of recognition and enforcement of judgments in order to achieve the same level of circulation of judgments with the EFTA States concerned.

By Decision of 27 September 2002, the Council authorised the Commission to negotiate a convention between the Community and, on the basis of the Protocol on its position, Denmark, of the one part, and Iceland, Norway, Poland, and Switzerland, of the other, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters to replace the Lugano Convention.

The Commission has negotiated such convention, on behalf of the Community, with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation, and the Kingdom of Denmark. The Convention was signed, on behalf of the European Community, on 30 October 2007, subject to its possible conclusion at a later date, in accordance with Council Decision of 15 October 2007.

In view of the positive outcome of the negotiations and the signature of the Convention, the Commission recommends that the Council adopt the decision concerning the conclusion of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The United Kingdom and Ireland are taking part in the adoption and application of this Decision. Pursuant to the Protocol on the position of Denmark, it does not take part in the adoption of the present Decision and is not bound by it or subject to its application.