Civil and commercial judicial cooperation: implementation of Article 5(2) of the EC /Denmark Agreement on jurisdiction and the recognition and enforcement of judgments

2009/0034(CNS) - 30/11/2009 - Final act

PURPOSE: to amend Decision 2006/325/EC to provide for a procedure for the implementation of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

LEGISLATIVE ACT: Council Decision 2009/942/EC amending Decision 2006/325/EC to provide for a procedure for the implementation of Article 5(2) of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

CONTENT: pursuant to the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in Title IV of the EC Treaty, and as a consequence Community instruments adopted in the field of judicial cooperation in civil matters are not binding upon or applicable in Denmark. However, the application of certain Community instruments has been extended to Denmark by way of the international agreements between the European Community and Denmark concluded on the basis of Article 300 of the EC Treaty. The relevant international agreements, concluded by Council Decisions 2006/325/EC and 2006/326/EC respectively, are:

- the Agreement between the European Community and Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matter;

- the Agreement between the European Community and Denmark on the service of judicial and extrajudicial documents in civil or commercial matters.

Those parallel agreements provide for the European Community's agreement to be given in cases where Denmark intends to enter into international agreements which may affect or alter the scope of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the Brussels I Regulation) or the European Parliament and Council Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents).

Neither the aforementioned Council Decisions nor the parallel agreements themselves stipulate how the Community should take a decision on such agreement. Therefore there is a need to lay down the procedure for the implementation of both parallel agreements in order to ensure that decisions on the European Community's agreement can be taken swiftly.

This is the purpose of this decision.

Implementation proceedings: this procedure should ensure that decisions expressing the Community's agreement can be taken swiftly. When informed by Denmark of its intention to enter into an international agreement, the Commission should assess the coherence of that agreement with Regulation (EC) No 44

/2001, including Community legislation affecting that Regulation, and set out any arrangements which may be necessary.

As the objective is to arrive at a uniform application of the provisions of Regulation (EC) No 44/2001 in all Member States and in Denmark, the Commission should ensure that Denmark does not enter into a specific international agreement if this could affect the conditions on which the Community would itself accede to the agreement in question, or, as the case may be, would authorise the Member States to accede to it in the interest of the Community.

If the Community is already party to the agreement in question or if the Community has authorised the Member States to become party thereto in the interest of the Community, the Commission should make an assessment of a more limited nature with the aim of verifying that Denmark proposes to accede to the international agreement on the same conditions as the Community or, as the case may be, the Member States as authorised by the Community.

The Commission shall take a reasoned decision within 90 days of being informed by Denmark of its intention to enter into the international agreement in question. If the international agreement in question meets the conditions set out, the decision by the Commission shall express the Community's agreement.

The Commission shall inform the Member States of the international agreements which Denmark has been authorised to conclude in accordance with this decision.

Territorial provisions: the United Kingdom and Ireland are taking part in the adoption and application of this Decision. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

ENTRY INTO FORCE: 30 November 2009.