Civil and commercial judicial cooperation, enforcement of judgments: Brussels I, Lugano Conventions

1999/0154(CNS) - 26/10/2000 - Modified legislative proposal

This amended proposal is adopted in response to amendments voted on by Parliament. The Commission can accept a number of Parliament's amendments. The amendments accepted in whole or in part aim to: - take into account of the special position of the United Kingdom and Ireland; - treat authentic instruments in the same way as judicial decisions, in terms of automatic recognition; - limit the multiplicity of courts having jurisdiction in insurance matters, the purpose of which is to enable an insurer to be sued in the courts for the place where the policy holder, the insured or a beneficiary is domiciled, regardless of the nature of the insurance contract (individual or group). The Commission can accept part of this amendment. The possibility offered to the policy-holder of suing in the courts for the place where he is domiciled, regardless of the nature of the contract, is already provided for in the Brussels Convention and there is no need to with draw it, which would be a retrograde step. But the Commission can accept that the extension of the protection of the courts to the insured person and the beneficiary be confined to situations where the contract is an individual contract, in order to avoid undesirable multiplication of courts having jurisdiction; - take account of the Regulation's impact on small business in the report, however, the Commission cannot accept the second part of the amendment which provides that this report should be made within two years rather than five. The Commission states that it would impossible, given the duration of judicial procedures in the Member States, to accumulate the necessary statistics and number of judgements under the Regulation to prepare the report; - provide a time-lag between adoption and entry into force of the regulation. On the other hand, the Commission cannot accept the amendments relating to: - the addition of a ew Article 17a (authorisation of clauses referring to consumer disputes to a non-judicial-settlement body); - Article 15 (definition of consumer contracts covered by the rules on jurisdiction in Article 16); - the insertion of a new Article 55a concerning the enforceability of settlements agreed within an alternative dispute-settlement scheme.