Civil and commercial judicial cooperation: EC /Denmark Agreement extending to Denmark the provisions on the service in the Member States of judicial and extrajudicial documents (Regulation (EC) No 1348/2000)

2005/0056(CNS) - 27/04/2006 - Final act

PURPOSE: the Conclusion of an Agreement between the European Communities and the Kingdom of Denmark extending the provisions of Regulation 1348/2000/EC.

LEGISLATIVE ACT: Council Decision 2006/326/EC concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters.

CONTENT: the actual Agreement between the European Community and Denmark to extend the provisions of Regulation 1348/2000/EC *on the service of judicial and extrajudicial documents in civil or commercial matters*, was signed in October 2005. This Decision forms the Conclusion of the Agreement's signature. (For a summary of Regulation 1348/2000 please refer to 1999/0102(CNS)).

To recall, Denmark has not been bound by the provisions of Regulation 1348/2000, due to the Protocol on the position of Denmark, annexed to the Treaty on European Union. This has led to an unsatisfactory legal situation and Denmark has sought to apply the provisions of the Regulation. The aim of the Agreement, therefore, is to extend the provisions of Regulation 1348/2000 on the service of documents and its implementing measures to Denmark. The stated objective being that these provisions and measures be applied uniformly.

The Agreement sets out procedures specifying how and under what conditions Denmark will take part in the adoption of amendments to the Regulation; as are provisions on implementing measures. The provisions state that in cases where Denmark decides either not to implement the amendments; in cases where it fails to notify implementation of the amendments within a thirty-day time-limit or in cases where the legislative measures do not enter into force within the time limits set, the Agreement will be considered terminated. Similar conditions are spelt out for the implementing measures.

The Agreement also states that any international agreements entered into by the Community when exercising its external competence relating to Regulation 1348/2000 will not be binding upon and will not apply to Denmark. Denmark, in turn, is obliged to abstain from entering into any agreements with third countries which may in any way alter or affect the scope of the Regulation.

The Agreement also foresees provisions relating to both the interpretation of and compliance with the Agreement and its role vis-à-vis the jurisdiction of the European Court of Justice (ECJ). Thus, for example, where a question of interpretation arises from this Agreement before a Danish court, the court will request that the ECJ gives a ruling. The Commission may bring cases of non-compliance before the ECJ and Denmark in turn may bring a complaint before the Commission regarding the non-compliance of a Member State of Regulation 1348/2000. Either Contracting Party may terminate the Agreement through a notification.

ENTRY INTO FORCE: The Agreement will be adopted once both Contracting Parties have adopted their respective procedures. It will enter into force on the first day of the sixth month following the notification by the Contracting Parties of the completion of their respective procedures.